

NATIONAL PROVIDENT

TRUST DEED for the LEVEL PREMIUM SCHEME

as amended by Deeds of Amendment dated:

26 November 1993

29 February 1996

31 March 1998 (*effective 1 April 1998*)

1 November 2000

5 April 2001

29 April 2009

WARNING

1. This Scheme trust deed is subject to change - if you are unsure as to when it was last updated or whether you have a current version please contact the Scheme Administrator.
2. Marginal dates indicate that text in the clause (including any subsequent clauses included under that clause) beside which they are placed was amended with effect from the dates stated. If you wish to consult the terms of the trust deed as it applied in the past, please contact the Scheme Administrator.

LEVEL PREMIUM SCHEME

TRUST DEED

APPROVED by the Minister of Finance pursuant to section 49 of the National Provident Fund Restructuring Act 1990 on 12 March 1993.

THIS DEED is made on the 30th day of March 1993

BY BOARD OF TRUSTEES OF THE NATIONAL PROVIDENT FUND
(defined below as “the Board”)

WHEREAS

- A.** The Scheme (as defined below) was established in 1911 under the National Provident Fund Act 1910 and continued under Part II of the National Provident Fund Act 1950
- B.** The Board is the trustee of the Scheme by virtue of section 20(1)(a) of the Act (as defined below)
- C.** Under section 45(1A) of the Act (as inserted by the 1991 Amendment Act (as defined below)) the Board is required to prepare a trust deed for the Scheme
- D.** The trust deed is required to incorporate the existing terms and conditions governing the Scheme. However certain amendments to the existing terms and conditions are authorised or required by the Act and in particular the Board may make such amendments to those terms and conditions as are necessary in order to reflect the practice of the Board in relation to the Scheme immediately before 1 April 1991

NOW THEREFORE THIS DEED WITNESSES AND IT IS HEREBY DECLARED that in accordance with the provisions of the Act, as from the date of execution of this Deed, the terms and conditions of the Scheme shall be those contained or implied herein, as amended from time to time.

PART I

INTRODUCTION

1 TITLE

This Deed is the trust deed for the Level Premium Scheme (as defined below).

2 DEFINITIONS AND CONSTRUCTION

2.1 In this Deed and the **Schedules**, unless the context otherwise requires, -

“**Act**” means the National Provident Fund Restructuring Act 1990;

“**Actuary**” means a person who is a Fellow of the New Zealand Society of Actuaries, who has been appointed by the Board under **clause 37** and whose appointment has not been terminated;

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“**Administration Manager**” means a person appointed by the Board to manage the administration of the Scheme under **clause 25.1**;

“**1991 Amendment Act**” means the National Provident Fund Restructuring Amendment Act 1991;

“**Beneficiary**” means a natural person who is eligible to receive a Benefit from the Scheme;

“**Benefit**” has the same meaning as in the Act;

“**Board**” means the Board of Trustees of the National Provident Fund established under section 9 of the National Provident Fund Act 1950, and as continued in existence and renamed by section 12 of the Act;

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“**Child**” in relation to any Contributor means a child of that Contributor’s family and “**Children**” shall be construed accordingly;

“**Continuous Contributor**” means a person who has been a Contributor for not less than five years continuously;

“**Contributor**” means a contributor to this Scheme and includes a person who has attained age sixty but has not made an Election to receive a pension or has made an Election to commence receipt of a pension on attainment of a future specified age;

“**Elect**” means to elect in writing, addressed and delivered or posted to the Board or an authorised representative of the Board; and “**Election**” has a corresponding meaning;

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“**Examination Date**” means the date as at which the most recent examination of the Scheme by the Actuary was made;

“**Financial Year**” in relation to the Scheme, means the period of twelve months from 1 April in one year to 31 March in the following year, or such other period as may be a financial year of the Scheme as determined by the Board from time to time;

“**Global Asset Trust**” means the trust referred to in clause 2 of the second schedule to the Act which has been established in accordance with the proposal (as defined in the Act);

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“**Husband**” in relation to a Contributor, includes a person whom the Board in its discretion regards as being the husband of the Contributor, being a person who although not legally married to the Contributor has lived as that Contributor’s husband on a permanent domestic basis for such period as the Board determines, and who may be a man or a woman;

“**Level Premium Scheme**” means the Superannuation Scheme of that name established in 1911 under the National Provident Fund Act 1910, continued under Part II of the National Provident Fund Act 1950, and as from the date of this Deed, governed by this Deed;

“**Member**” means a natural person who has been admitted to membership of the Scheme and who is, or may become, entitled to Benefits under the Scheme;

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“**Minimum Pension**” means the amount determined by the Board from time to time under **clause 19A.1**;

“**month**” means calendar month;

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“Pension Scheme” means the National Provident Pension Scheme established by trust deed dated 20 April 1999;

“Property” means property of every kind, whether tangible or intangible, real or personal, corporeal or incorporeal, and includes, without limiting the generality of the foregoing, -

- (a) Units in the Global Asset Trust;
- (b) Chooses in action and money;
- (c) Goodwill;
- (d) Rights, interests, and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by, or the subject of, an instrument or otherwise, and whether liquidated or unliquidated, actual, contingent, or prospective;

“the Scheme” and **“this Scheme”** mean the Level Premium Scheme;

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“Spouse” in relation to any Contributor who has died, means a man or woman to whom the Contributor was married immediately before the Contributor’s death, and whether or not the Contributor is legally married to another person may include a man or woman who the Board in its discretion regards as having been the husband or wife or partner of the Contributor immediately before the Contributor’s death, being a man or woman who although not legally married to the Contributor had lived as that Contributor’s husband or wife or partner on a permanent domestic basis for such period as the Board determines;

“Superannuation Scheme” has the same meaning as in section 2 of the Superannuation Schemes Act 1989, and includes each existing scheme (as defined in the Act);

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“Transfer Value” in respect of any Transferred Member and at any time, means:

- (i) The dollar amount calculated under **clause 38B.2**; plus (or less, as appropriate)

- (ii) An amount equal to the sum of the earnings that have been credited (and/or debited, as the case may be) at or prior to that time under **clause 38B.4**; plus (or less, as appropriate)
- (iii) An amount equal to the earnings that have been credited (or debited, as the case may be) at or prior to that time under **clause 38B.5**;

26/11/93 **“Transfer Value Earnings Rate”** has the meaning given to it in **clause 38B.7**;

26/11/93 **“Transferred Member”** means a Member who has made an Election to transfer under **clause 38A** and whose Election to transfer has been accepted by the Board;

“Unit Amount” means the amount of annual pension to which a Contributor becomes entitled as a result of that Contributor’s contributions at the appropriate annual rate set out in the **First Schedule**, which amount was, as at 31 March 1991, \$363.13, and is, as at the date of execution of this Deed, \$394.44, and which amount may be increased from time to time by the Board under **clause 28**;

“Widow” in relation to a Contributor, means a person who was the Contributor’s Wife at the time of the Contributor’s death;

29/2/96 **“Wife”** in relation to a Contributor, includes a person whom the Board in its discretion regards as being the wife of the Contributor, being a person who although not legally married to the Contributor has lived as that Contributor’s wife on a permanent domestic basis for such period as the Board determines, and who may be a man or a woman, but does not, unless the Board determines otherwise, include any person to whom the Contributor was married, or who commenced living as the Contributor’s wife, after the Contributor attained the age of sixty.

2.2 Unless the context otherwise requires terms not defined in this Deed but defined in the Act shall have the same meaning as in the Act, whether specific reference is made to the Act or not.

29/2/96 2.3 In the construction of this Deed, unless the context otherwise requires -

- 2.3.1 References to **clauses**, Parts and **Schedules** are to clauses and parts of and schedules to this Deed;
- 2.3.2 References to any statute are references to the statute as from time to time amended and include substituted provisions that substantially correspond to those referred to and also include any regulations, Orders in Council and other instruments from time to time issued thereunder;
- 2.3.3 The singular includes the plural and vice versa;
- 2.3.4 Other than “female” and “male”, words importing the masculine include the feminine;
- 2.3.5 The headings and sub-headings appear as a matter of convenience and shall not affect the construction of this Deed.

PART II

ELIGIBILITY AND CONTRIBUTIONS

3 ELIGIBILITY

- 3.1 Subject to the terms of this Scheme, persons who satisfy the requirements of section 38 of the Act may be Contributors to this Scheme. For ease of reference, a copy of section 38 (in the form as at the date of this Deed) is annexed to this Deed as the **Third Schedule**.
- 3.2 No person shall be entitled to be a Contributor to this Scheme unless that person was a Contributor on 31 December 1983.
- 29/2/96 3.3 This Scheme is closed to new Contributors and to rejoining Contributors as from 1 January 1996.

4 CONTRIBUTIONS

Contributions to this Scheme shall be made as follows:

- 4.1 Each Contributor shall continue to contribute to the Scheme at the same annual rate or rates at which that Contributor was contributing on 1 January 1984.

- 4.2 Each Contributor's contributions for each Financial Year for the Scheme shall be as calculated by the Board and shall be payable by the Contributor as at the beginning of that Financial Year.
- 4.3 If any or all of the contributions payable in respect of a Financial Year for the Scheme have not been paid by the end of that Financial Year, the Contributor's account shall be treated as being in arrears as from the end of that Financial Year.
- 4.4 If a Contributor's account is in arrears for more than twenty six weeks (or such later date as the Board may in any case permit) from the end of the relevant Financial Year, and the arrears are no less than the total contributions payable by that Contributor in respect of that Financial Year, the person owing the contributions shall, unless the Board in its discretion determines otherwise, cease to be a Contributor to this Scheme and to be entitled to a pension or other Benefit from this Scheme, other than the return of all contributions made by that person to the Scheme (less any sum that person has previously received from the Scheme in respect of the Benefits hereinafter provided).
- 4.5 The Board may, in its discretion, permit any contributions to be paid to the Scheme after the period of twenty six weeks referred to in **clause 4.4** subject to the payment at the same time of a fine equal to one-eighth of the amount of those contributions. Any such fine may be remitted by the Board, in whole or in part.
- 4.6 Where any contributions are paid in advance of the date that such contributions become payable under **clause 4.2**, the Board may reduce the amount of those contributions in such manner and to such extent as it deems appropriate.
- 4.7 Where any Contributor attains the age of sixty during a Financial Year for the Scheme, the contributions payable for that year (which shall be payable only in respect of the period from the beginning of that Financial Year to the last day of the month immediately preceding the month in which the Contributor's birthday falls) shall be adjusted pro rata to the end of the month immediately prior to the Contributor's sixtieth birthday.
- 4.8 Where any moneys become payable out of the Scheme to or in respect of any Contributor, all arrears of the contributions of that

Contributor, together with all fines payable in respect thereof, shall be a charge on the moneys so payable out of the Scheme and shall be deducted therefrom accordingly.

5 PAYMENT OF CONTRIBUTIONS

- 5.1 Each contribution to this Scheme may be paid to the Board at its office in Wellington or, with the prior approval of the Board to any other office of the Board, or to the Board's duly authorised agent.
- 5.2 Each contribution made in accordance with **clause 5.1** shall be deemed to be made when credited to the Scheme's bank account.

PART III

WITHDRAWAL

6 CEASING CONTRIBUTIONS

- 6.1 A Contributor to the Scheme may at any time Elect to cease to be a Contributor.
- 6.2 Every person who so ceases to be a Contributor shall thereupon be entitled to receive from the Scheme a return of all contributions previously made by that person, less any sums that person had previously received from the Scheme in respect of the Benefits hereinafter provided.

29/2/96 **7 EFFECT OF WITHDRAWAL**

29/2/96 Any person who has made an Election under **clause 6.1** may not rejoin this Scheme.

PART IV

PENSIONS

8 CALCULATION OF PENSIONS

- 8.1 The annual contribution required to secure an annual pension of the Unit Amount (and of each additional Unit Amount, subject to **clause 8.2**) at age sixty shall depend on the age at which a Contributor started contributing to the Scheme and shall be determined according to the contribution rates set out in Table A of the **First Schedule**.
- 8.2 In the case of any male Contributor who was, as at 1 January 1984, contributing to secure a pension of more than two Unit Amounts, and either:
- 8.2.1 Commenced contributing to the Scheme after 1 December 1957 and from the date of commencing contributions, Elected to contribute at a rate sufficient to secure a pension of more than two Unit Amounts; or
 - 8.2.2 Increased his contributions to the Scheme to secure a pension of more than two Unit Amounts after 1 December 1957; or
 - 8.2.3 Increased his contributions to the Scheme to secure a pension of more than two Unit Amounts before 1 December 1957, or commenced contributing to the Scheme before that date and from the date of commencing contributions Elected to contribute at a rate sufficient to secure a pension of more than two Unit Amounts, and Elected to contribute at the higher rate since 1 December 1957,

in each case in order to secure the payment of a Widow's pension under **clause 9**, the annual contribution required to secure a pension of the additional Unit Amounts above two Unit Amounts, shall be determined according to the rates set out in Table B of the **First Schedule**.

8.3 In the case of a Contributor who commenced contributing to this Scheme after age forty-nine, the contribution rates shall be as determined by the Board.

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8.4 On attaining the age of sixty years the Contributor shall be entitled, without making any further contribution, to receive for the rest of that Contributor's life, an annual pension of the number of Unit Amounts for which that Contributor has been contributing;

PROVIDED THAT no pension will be payable under this **clause 8.4** if it would be less than the Minimum Pension, and the Contributor will instead receive a lump sum equal to the value of that pension entitlement (as determined by the Actuary) and will cease to be a Member, Contributor or Beneficiary from the date of payment.

9 WIDOWS' PENSIONS

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9.1 Where a male Contributor was, on 1 January 1984, contributing for a pension of more than two Unit Amounts, and either:

9.1.1 Commenced contributing to the Scheme after 1 December 1957 and from the date of commencing contributions Elected to contribute at a rate sufficient to secure the payment of a pension of more than two Unit Amounts; or

9.1.2 Increased his contributions after 1 December 1957 to secure a pension of more than two Unit Amounts; or

9.1.3 Increased his contributions before 1 December 1957, or commenced contributing to the Scheme before that date and from the date of commencing contributions Elected to contribute at a rate sufficient to receive a pension of more than two Unit Amounts, and has Elected since 1 December 1957 to contribute at the increased rate,

in each case in order to secure payment of a pension to that Contributor's Widow, there shall be payable to the Contributor's Widow on the death of the Contributor (whether before or after that Contributor has become entitled to receipt of a pension from this Scheme but **provided that** the Contributor has not Elected to receive a lump sum payment under **clause 13.1**), an annual pension at a rate equal to one half the Unit Amounts in excess of two Unit Amounts for which the Contributor was contributing

(adjusted in such manner as the Board deems appropriate to take account of any payments previously made to the Contributor under **clause 13.2** or any other Benefits previously paid to the Contributor under this Scheme);

PROVIDED THAT no pension will be payable under this **clause 9.1** if it would be less than the Minimum Pension, and the Widow will instead receive a lump sum equal to the value of that pension entitlement (as determined by the Actuary) and will cease to be a Beneficiary from the date of payment.

9.2 Any pension payable to a Contributor's Widow under **clause 9.1** shall not cease if the Widow subsequently marries or enters into a de facto relationship.

10 ELECTION TO RECEIVE JOINT PENSION

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A Contributor may Elect to have that Contributor's right to a pension determined, and to receive instead a right that that Contributor, and any dependant of that Contributor for whom that Contributor has responsibility for part-time care or full-time care, shall, on the Contributor becoming entitled to receive a pension, be jointly entitled to a pension for such amount and subject to such conditions as the Board may determine, to continue in force until the death of the survivor;

PROVIDED THAT no Election may be made under this **clause 10** if as a result of that Election, the joint pension payable would be less than the Minimum Pension.

11 DEFERMENT OF PENSION

11.1 Any Contributor who does not, on attaining age sixty, Elect to receive the pension then payable to that Contributor under the Scheme, may Elect to commence receipt of the pension at any time prior to attaining age sixty five, or, with the Board's consent, at any time after attaining age sixty five.

11.2 Any Contributor may, after attaining age sixty, and with the consent of the Board, Elect to commence receipt of the pension payable to that Contributor on that Contributor's attaining a future specified age.

11.3 Where an Election is made under **clause 11.1** or **clause 11.2** to commence receipt of a pension payable from this Scheme after

attaining age sixty, the pension payable shall be increased for each complete period of twelve months after attainment of age sixty and before commencement of the pension, by such amount (if any) as the Board considers appropriate after considering the advice of the Actuary.

11.4 Where an Election is made under **clause 11.1** or **clause 11.2** to commence receipt of a pension after attaining age sixty the pension will commence (subject to **clause 11.5**) in the case of an Election under **clause 11.1**, from the day after the Contributor's birthday on which the Contributor's Election becomes effective, and in the case of an Election under **clause 11.2**, on the day after attainment by the Contributor of the specified age.

11.5 Where an Election is made under **clause 11.1**, the Board may, in its discretion, determine that the Contributor's pension shall commence from the beginning of the month following the date of the Election, and shall in that event make such adjustments to the pension payable as the Board deems appropriate.

11.6 Any Contributor who on attaining age sixty five has not made an Election under **clause 11.1** and has not been permitted to make an Election after age sixty five under **clause 11.1** or any Election under **clause 11.2** (and did not commence receipt of the pension on attaining age sixty) shall be deemed to have made an Election to commence receipt of that Contributor's pension on attaining age sixty five.

11.7 No contributions shall be payable to the Scheme by any Contributor after attaining age sixty, other than contributions that became payable before that Contributor attained age sixty.

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11.8 No pension will be payable under this **clause 11** if it would be less than the Minimum Pension, and the Contributor will instead receive a lump sum equal to the value of that pension entitlement (as determined by the Actuary) and will cease to be a Beneficiary from the date of payment.

12 RETURN OF CONTRIBUTIONS IN LIEU OF PENSION

Every Contributor who becomes entitled to receive a pension may at any time before receiving and accepting the first instalment thereof Elect to

accept instead of that Contributor's pension a return of all contributions made by that Contributor to this Scheme, less all sums previously received by that Contributor from the Scheme in respect of the Benefits provided by the Scheme.

13 CASH PAYMENT IN LIEU OF WHOLE OR PART OF PENSION

13.1 Every Contributor who becomes entitled to receive a pension may, with the Board's consent, at any time before receiving and accepting the first instalment thereof, Elect to accept instead of that Contributor's pension, a lump sum payment equal to ten times the amount of the annual pension (less all sums previously received by that Contributor from the Scheme in respect of the Benefits provided by the Scheme).

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13.2 Every Contributor who becomes entitled to receive a pension may at any time before receiving and accepting the first instalment thereof Elect to surrender that Contributor's right to a proportion of the pension and to receive instead thereof payment of a sum equal to nine times the amount by which the annual pension is reduced pursuant to the surrender. The proportion of the pension which any Contributor may Elect to surrender under this **clause 13.2** shall not exceed one-fourth of the annual pension, and on making the Election, the annual pension payable to that Contributor shall be reduced by the same proportion as that which the Contributor has Elected to surrender;

PROVIDED THAT no Election may be made under this **clause 13.2** if, as a result of that Election, the remaining pension payable to the Contributor would be less than the Minimum Pension.

PART V

DEATH BENEFITS

14 ALLOWANCES TO WIDOW AND CHILDREN ON DEATH OF CONTINUOUS CONTRIBUTOR LEAVING CHILDREN

14.1 If any Continuous Contributor dies while still a Contributor, or if any person dies while in receipt of a pension under the Scheme, and (in either case) the deceased Contributor leaves surviving him or her a

Child or Children under the age of sixteen years, the following provisions of this **clause 14** shall apply.

14.2 There shall be payable out of the Scheme to or for the benefit of the said Child or Children and the Widow (if any) of the deceased Contributor an allowance in accordance with the provisions of the **Second Schedule**.

14.3 The allowance so payable out of the Scheme may, at the discretion of the Board, -

14.3.1 Be paid to the said Widow for the maintenance of herself and the said Children; or

14.3.2 Be divided between the said Widow and Children, or any of them, in such proportions as the Board from time to time determines; or

14.3.3 Be paid to any other person or persons to be expended on behalf of the said Widow and Children, or any of them, in such manner as the Board directs.

14.4 In the case of the death of a Contributor, being a Married woman leaving a Child or Children under the age of sixteen years, no allowance under this **clause 14** shall be payable in respect of any such Child or Children until the subsequent death of the Husband of the deceased Contributor before the said Child or Children attain the age of sixteen years.

14.5 From any allowance payable under **clause 14.4** the Board shall make such deductions as it determines in respect of payments previously made under **clause 15** to the personal representatives of the deceased Contributor or of the survivor, as the case may be.

14.6 The allowance payable under this **clause 14** shall commence from the day after the date of death of the Contributor, except where **clause 14.4** applies where it shall commence from the day after the date of death of the deceased Contributor's Husband.

14.7 No allowance will be payable under this **clause 14** if it would be less than the Minimum Pension and the person who would otherwise have received that allowance will instead receive a lump sum equal

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to the value of that entitlement (as determined by the Actuary) and will cease to be a Beneficiary from the date of payment.

15 BENEFITS ON DEATH OF CONTRIBUTOR

15.1 Where a Contributor dies, whether before or after becoming entitled to a pension, the following provisions shall apply:

15.1.1 If the Contributor leaves no survivor entitled to a pension, the amount of that Contributor's contributions to the Scheme, less any sum received from the Scheme in that Contributor's lifetime, and less any allowances which are payable under **clause 14** in respect of that Contributor's contributions, shall be paid to the estate of the Contributor.

15.1.2 If the Contributor leaves a survivor entitled to a pension and the survivor dies, the amount of the Contributor's contributions to the Scheme less any sums received from the Scheme by the Contributor or the survivor, and less any allowances which have been paid or are payable under **clause 14** in respect of the contributions, shall be paid to the estate of the survivor.

15.1.3 Notwithstanding the provisions of **clause 15.1.1** and **clause 15.1.2** no payment shall be made under this **clause 15.1** until all allowances which are payable under **clause 14** in respect of the contributions of the deceased Contributor have been paid.

15.2 For the purposes of this **clause 15** the expression "paid to the estate" means paid to the personal representatives of a deceased person, in trust for the persons entitled thereto under the deceased person's will, or under the statutes relating to the distribution of intestates' estates, as the case may be.

PART VI

BENEFITS ON INCAPACITY

16 BENEFITS DURING INCAPACITY IN CERTAIN CASES

16.1 If and as often as any Continuous Contributor who has not accepted any part of his or her pension is considered by the Board to have become by reason of any illness or personal injury wholly

incapacitated, either permanently or temporarily, from carrying on his or her trade, business, employment, calling, or occupation, the following provisions of this **clause 16** shall apply.

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- 16.2 If and so long as at any time during the period of incapacity referred to in **clause 16.1** the Contributor has responsibility for part-time care or full-time care of any Child or Children under the age of sixteen years, the Contributor shall, subject to the conditions and limitations expressed herein, be entitled to receive from this Scheme during the period of the Contributor's incapacity an allowance in accordance with the provisions of the **Second Schedule**.
- 16.3 Where a Contributor is contributing to secure a pension of one to two Unit Amounts only, no contributions to the Scheme shall be payable by a Contributor in respect of any period during which the Contributor is, or, but for **clause 16.10**, would be, in receipt of an allowance payable under **clause 16.2**, but the Contributor shall for all other purposes be deemed to remain a Contributor to the Scheme during that period.
- 16.4 Where a Contributor is contributing to secure a pension of three or more Unit Amounts, only the contributions payable in respect of the third and subsequent Unit Amounts will be payable in respect of any period during which the Contributor is or, but for **clause 16.10**, would be, in receipt of an allowance payable under **clause 16.2**
- 16.5 No allowance shall be payable under **clause 16.2** in respect of any incapacity which is due in the Board's opinion to the serious misconduct of the Contributor.
- 16.6 Subject to **clause 16.7**, no allowance shall be payable under **clause 16.2** in respect of any incapacity which lasts for a shorter period than thirteen weeks, and if the incapacity lasts for more than thirteen weeks no such allowance shall be payable in respect of the first thirteen weeks.
- 16.7 The Board may, in its discretion, reduce or wholly dispense with any period of thirteen weeks referred to in **clause 16.6** if it is satisfied that the incapacity in respect of which an allowance is claimed has resulted from an illness or personal injury for which an allowance from the Scheme has within twenty six weeks prior to the

commencement of the period of thirteen weeks, been paid under **clause 16.2**.

- 16.8 Except with the consent of the Board, no allowance shall be paid under **clause 16.2** in respect of any period of incapacity arising out of any illness or injury which in the opinion of the Board commenced or happened at any time before the person so incapacitated had been a Contributor for five years.
- 16.9 No allowance payable under **clause 16.2** shall exceed in respect of any period of incapacity, the amount of the pecuniary loss which, in the opinion of the Board, the Contributor has probably suffered during that period by reason of the Contributor's incapacity. In estimating the pecuniary loss suffered by a Contributor, benefits accruing to the Contributor from any registered friendly society of which the Contributor is a member shall not be taken into account.
- 16.10 If during the period of incapacity, or any part of that period, the income of the Contributor (apart from any allowance under **clause 16.2**) exceeds \$12 a week, the allowance payable under **clause 16.2** in respect of that period or that part thereof, as the case may be, shall be reduced by such amount as the Board, in its discretion, thinks fit
- PROVIDED THAT** any such reduction shall not exceed 10c a week for every complete 20c per week by which that income exceeds \$12 a week.
- 16.11 Every person claiming an allowance under **clause 16.2**, or in receipt of any such allowance, shall at all times and from time to time submit to such medical examination as is required by the Board; and if any person refuses without lawful justification to submit to any such examination, or in any manner obstructs or delays any such examination, that person's allowance may be forfeited or suspended by order of the Board.
- 16.12 Any allowance payable under **clause 16.2** may, if the Board thinks fit, instead of being paid to the Contributor, be paid to any other person to be expended for the benefit of any such Child or Children in accordance with the directions of the Board. All sums so paid by the Board shall for all the purposes of this Scheme be deemed to have been received by the Contributor out of the Scheme.

16.13 Where any contributions have been paid in advance in respect of a period of incapacity for which, in accordance with the provisions of **clause 16.3** or **clause 16.4**, no or less than the total amount of contributions are payable, the amount of the contributions for that period which are not required to be paid by virtue of **clause 16.3** or **clause 16.4** (as applicable) shall either be refunded to the Contributor or be applied by the Board towards the payment of that Contributor's future contributions, as the Board may in any such case determine.

16.14 The Board may, in its discretion, refuse to receive any application under this **clause 16** in respect of any period of incapacity earlier than fifty two weeks before the date of the application.

PART VII

OTHER PROVISIONS RELATING TO BENEFITS

17 EXTENSION OF CHILDS BENEFITS

Where any Child of a deceased or incapacitated Contributor has attained the age of sixteen years and an allowance would be payable out of the Scheme in respect of or for the benefit of the Child if the Child were under that age, the Board may, in its discretion, as if the Child had not attained that age, grant or continue an allowance in respect of or for the benefit of the Child -

17.1 For the purposes of assisting in the further education of the Child, for such period as the Board thinks fit, expiring not later than the end of the year in which the Child attains the age of eighteen years;

17.2 If by reason of any physical or mental defect the Child is totally incapacitated from earning a living, for such period as the Board thinks fit.

18 PAYMENT OF BENEFITS

18.1 Every allowance or pension payable under this Scheme shall be paid by instalments in advance at intervals of four weeks or at such other intervals as the Board in any case directs.

18.2 Except as otherwise provided in this Deed, every instalment payable under **clause 18.1** shall be payable to the person entitled thereto (in this **clause 18** referred to as “the pensioner”) personally, unless the Board in its discretion directs that it shall be payable to some other person on behalf of the pensioner.

18.3 In any case where, by reason of the age or infirmity of the pensioner or for any other sufficient cause, the Board considers that it is not convenient that payment be made to the pensioner personally, payment may be made to any person or bank account duly authorised by the pensioner to receive payment on the pensioner’s behalf.

18.4 All Benefits payable under this Scheme shall be payable in New Zealand dollars and to a bank account in New Zealand, or, if the Board agrees, by posting of a cheque in New Zealand dollars to an address nominated by the person entitled to receive the Benefit.

19 COMPETING CLAIMS

1/11/00 Where more persons than one have claims as the Widow of any Contributor, the total amount payable in respect of any Benefit to which one Widow would be entitled may be divided between them in such shares and proportions (including a nil proportion) as the Board thinks fit but not so as to result in the payment of a pension which is less than the Minimum Pension.

1/11/00 19A MINIMUM PENSIONS

1/11/00 19A.1 The Board may from time to time determine a minimum annual amount for a pension payable from this Scheme (the “Minimum Pension”) and a date (the “specified date”) from which that minimum amount is to apply.

1/11/00 19A.2 The Board may from time to time offer to a person who began receiving a pension from this Scheme before 1 November 2000, which is less than the Minimum Pension, an opportunity to elect (by written notice to the Board) to cancel his or her pension with effect from a date specified by the Board, being on or after the specified date (the “effective date”), and have the value of the pension entitlement from the effective date (as determined by the Actuary) paid to him or her as a lump sum.

1/11/00

19A.3 Where any person receives a payment under **clause 19A.2**, he or she will cease to be a Member, Contributor or Beneficiary from the effective date.

PART VIII

TRUSTEE PROVISIONS

20 TRUSTEES - APPOINTMENT AND REMOVAL

20.1 The Board is the trustee of this Scheme pursuant to section 20(1)(a) of the Act.

20.2 The members of the Board hold office in accordance with Part II of the Act.

20.3 The Board is a body corporate, and as such cannot retire from the office of trustee, nor can another trustee be appointed other than by Act of Parliament.

21 POWERS OF BOARD

21.1 The Board may give guarantees, undertakings, and indemnities and incur all such obligations relating to this Scheme as the Board in its discretion thinks fit.

21.2 The Board may borrow money for the purposes of -

21.2.1 Making any investment; or

21.2.2 Paying any Benefit; or

21.2.3 Meeting any liability (as defined in the Act); or

21.2.4 The management (as defined in the Act) of this Scheme.

21.3 The Board may enter into any insurance or reinsurance contract relating to the payment pursuant to this Scheme of any Benefit contingent on the death or survival of human life.

22 POWER OF AMENDMENT

22.1 For the purpose of **clause 22.3** the words “benefit” and “employer” shall have the same meanings as in the Superannuation Schemes Act 1989.

22.2 Subject to **clause 22.3**, **clause 22.4** and **clause 22.5**, the Board may from time to time, on the recommendation of the Actuary, or for any other reason, vary any of the terms and conditions of this Scheme.

22.3 No amendment to this Scheme which would have the effect of -

22.3.1 Reducing, postponing or otherwise adversely affecting the benefits, whether vested, contingent, or discretionary, that may in due course flow from, or are attributable to, membership of this Scheme up to the date the amendment is made; or

22.3.2 Removing any right of the Members or other Beneficiaries to participate in the management of this Scheme; or

22.3.3 Increasing the contributions, fees, or charges payable by any Member; or

22.3.4 Providing for the reversion of any assets of this Scheme to any employer to any greater extent than already provided for in this Deed -

shall be made without the written consent of every Member, and of every other Beneficiary who is in receipt of a benefit of this Scheme at the date the amendment is made, who would be adversely affected by the amendment.

22.4 No alteration to this Scheme that -

22.4.1 Would be contrary to or have the effect of nullifying or reversing or amending any matter stated in this Deed, or any provision implied in this Deed by the Superannuation Schemes Act 1989; or

22.4.2 Would have the effect of extending or varying or limiting the scope of this Deed in any material particular -

shall be effected otherwise than by way of amendment to this Deed in accordance with section 12 of the Superannuation Schemes Act 1989.

22.5 **Clause 22.3** and any implied term to that effect shall not apply to any amendment made under **clause 28.1**.

23 LIMITATION OF LIABILITY

23.1 No member of the Board shall be liable to the Board or any other person, nor shall the Board be liable, for any losses:

23.1.1 Arising from any act or omission done bona fide in conformity with the decisions of the Board pursuant to the provisions of this Deed or the Act; or

23.1.2 Not attributable to the wilful act or omission of the Board or member of the Board, as the case may be, known by the Board or member of the Board to be a breach of trust; or

23.1.3 Arising from the neglect or default of any manager appointed under this Scheme or of any solicitor, banker, accountant, broker, actuary, or other adviser or agent employed or consulted by the Board.

23.2 Without limiting **clause 23.1** neither the Board nor any member of the Board shall be liable for any losses attributable to the Board's or any member of the Board's negligence in the execution of the Board's or any member of the Board's duties under this Deed or the action of any employee of the Board.

23.3 The liability of the Board and of every member of the Board for all losses, damages, costs and expenses of the Board for all claims against the Board and for every action of the Board referred to in this **clause 23** shall be limited to the Property of this Scheme.

23.4 No member of the Board shall be liable to contribute personally to any losses, damages, costs or expenses claimed against or payable by the Board unless the loss, damage, cost, or expense has been held by the High Court or any superior court to be attributable to that member of the Board's dishonesty or that member of the Board's omission or wilful act known by that member of the Board to be a breach of trust.

PART IX

INVESTMENT PROVISIONS

24 INVESTMENT

24.1 The Property of this Scheme may be invested only in the Global Asset Trust, whether by way of debt securities or participatory securities or otherwise.

24.2 Nothing in **clause 24.1** shall prevent the Board as trustee of this Scheme depositing money of this Scheme into a bank account (which may be a bank account for one or more existing schemes (as defined in the Act)) to the extent necessary or desirable for the operation of this Scheme.

24.3 Nothing in section 8 of the Superannuation Schemes Act 1989 or the provisions of the Trustee Act 1956 relating to the investment of trust funds shall apply in respect of this Scheme or the investment of the Property of this Scheme.

25 APPOINTMENT OF ADMINISTRATION AND/OR INVESTMENT MANAGERS

25.1 The Board may, on such terms and conditions as it thinks fit, appoint any person (including the Crown) to manage all or any part of -

25.1.1 The administration of this Scheme; or

25.1.2 The investment of the trust fund (as defined in the Act) of this Scheme; or

25.1.3 Both.

25.2 All fees and expenses payable to any manager or managers appointed under **clause 25.1** shall be paid out of the trust fund of the Scheme.

25.3 Where the Board has appointed an Administration Manager to, or agreed that the Administration Manager may, perform or exercise any duty or power given to the Board by this Deed, references in this Deed to the performance or exercise of that duty or power by the

Board shall be deemed to be references to the performance or exercise of that duty or power by the Administration Manager.

PART X

MISCELLANEOUS

26 GUARANTEE

The Benefits payable from this Scheme are guaranteed by the Crown.

27 ELECTIONS IRREVOCABLE

26/11/93
1/4/98

27.1 As soon as an Election under this Scheme has been made it shall be irrevocable, unless the Board in its discretion determines otherwise.

1/4/98

27.2 Any Election referred to in **clause 27.1** shall be deemed to be made as soon as it has been received by the Board or Administration Manager or an authorised agent of the Board or Administration Manager.

28 USE OF SURPLUSES

To the extent that any surpluses arise in respect of the Scheme as a result of scheme performance, mortality experience or otherwise, the Board may from time to time and notwithstanding any other provision of this Scheme do any or all of the following:

28.1 On the recommendation of the Actuary:

28.1.1 Increase the Unit Amount;

28.1.2 Increase the Benefits payable to all Members and Beneficiaries on an equitable basis;

28.2 Make hardship payments to any Member or Beneficiary;

28.3 Pay any expenses of this Scheme.

29 PROHIBITION OF ASSIGNMENT, BORROWING AND PAYMENT OF DEBTS

29.1 No money payable from this Scheme to any person shall be in any way assigned or charged or pass to any other person by operation of law.

29.2 No Contributor shall borrow against the security of any Benefits payable from this Scheme.

29.3 Any money payable from this Scheme on the death of a Contributor shall not be assets for the payment of that Contributor's debts or liabilities.

30 BANKRUPTCY

All the Benefits of any person under this Scheme shall be forfeited to this Scheme in the event that the Board considers that the person has committed or is likely to commit any act of bankruptcy; and shall be applied by the Board to the benefit of that person or that person's dependants in such manner as the Board considers appropriate having regard to the objects of this Scheme.

31 PAYMENTS IN RESPECT OF MINORS

31.1 Where any Benefit is payable under this Scheme to any minor the Board may pay the Benefit to the minor or, subject to such terms and conditions as the Board may determine, to any other person to be expended on behalf of the minor.

31.2 Any receipt given by a minor or other person for money paid under **clause 31.1** shall be a good discharge to the Board.

32 UNCLAIMED MONEY PAYABLE OUT OF SCHEME

All money payable out of this Scheme to any person for which no claim or demand has been made by or on behalf of that person shall remain part of this Scheme but may at any time be paid out of this Scheme to any person establishing a lawful claim to the money.

32A MISSING PERSONS

- 5/4/01 32A.1 In this **clause 32A** –
- “Existing Scheme” has the same meaning as in the Act:
- “Missing Person” means any Member or Beneficiary from, or in respect of, whom no contributions are being received and for whom the Board has no current address.
- 5/4/01 32A.2 The Board may deduct from any Benefit or entitlement to which the Missing Person is entitled, a reasonable amount to cover the costs incurred by the Board in endeavouring to locate, and in confirming and satisfying the Scheme’s liability to, the Missing Person and this **clause 32A.2** does not limit any other power the Board may have to charge costs or expenses against this Scheme or any other Existing Scheme, or against a Member or Beneficiary.
- 5/4/01 32A.3 The Board may allocate to any Missing Persons:
- 32A.3.1 property of this Scheme equivalent to the Missing Persons’ share in this Scheme; and
- 32A.3.2 future investment returns from that property received after the date of that allocation.
- 5/4/01 32A.4 The Board may transfer Missing Persons, the liabilities of the Scheme to those Missing Persons and any property allocated to them under **clause 32A.3**, to any other Existing Scheme without the consent of Members or Beneficiaries or any other person.
- 5/4/01 32A.5 For the purposes of **clause 32A.3.1** and except as otherwise approved in writing by the Minister of Finance, a share in this Scheme is to be calculated as the value of the liabilities (as determined by the Actuary) of this Scheme to the Missing Persons –
- 32A.5.1 **plus**, if this Scheme has an actuarial surplus, an equitable share of the surplus, as determined by the Board after receiving advice from the Actuary; or

32A.5.2 **less**, if this Scheme has an actuarial deficit, an equitable share of the deficit, as determined by the Board after receiving advice from the Actuary.

5/4/01 32A.6 The Board may at any time extinguish the liabilities of this Scheme to a person who has been a Missing Person for a period of at least five years before the extinguishment (whether under this Scheme or under the provisions of any Existing Scheme which are equivalent to the provisions of this **clause 32A**) **PROVIDED THAT:**

32A.6.1 no liability may be extinguished under this **clause 32A.6** unless the Board has used reasonable endeavours to find the current address of that Missing Person; and

32A.6.2 if any person establishes to the satisfaction of the Board that a liability of this Scheme to him or her has been extinguished under this clause during the previous 15 years, the Board must reinstate the liability of this Scheme to that person as if it had never been extinguished.

33 INTEREST ON MONEY RECEIVED OR HELD IN ERROR

33.1 Where any money has been received by the Board from any person, and the money, for whatever reason, was received in error, the Board may in its discretion pay to that person, in addition to any refund, interest on the money refunded from the date of its receipt into the Scheme at such rate as may from time to time be determined by the Board.

33.2 Where for any reason whatsoever any money is or has been held in error in the Scheme on behalf of any person, the Board may in its discretion pay to that person, in addition to the said money, interest thereon from the date on which payment should have been made to that person to the date of actual payment at such rate as the Board may from time to time determine.

34 DECISIONS OF BOARD AS TO CLAIMS TO BE FINAL

The decision of the Board on any matter affecting the rights of a Contributor, or of any person claiming to be a Contributor, or of any person claiming through a Contributor, or otherwise claiming any right or Benefit under this Scheme, shall in all cases be final and conclusive.

35 IMPLIED TERMS OR CONDITIONS

Every provision of the National Provident Fund Act 1950 that was a term or condition of the Scheme immediately before 1 April 1991, but which is not set out in this Deed, shall be deemed to be set out herein, and each such provision shall be modified to the extent necessary to reflect Board practice in relation to the Scheme immediately before 1 April 1991. The Board shall make every reasonable effort to identify the provisions to which this **clause 35** applies, and any Board practice which modifies each such provision.

36 INFORMATION TO MEMBERS

36.1 Every Member of this Scheme shall have the right to receive the annual reports of the Board in respect of this Scheme, to receive estimates of Benefits, and to look at and receive copies of the scheme documents and reports, in all respects as provided for in and in accordance with the Superannuation Schemes Act 1989.

36.2 The Board shall comply with the reporting requirements of the Superannuation Schemes Act 1989.

37 ACTUARY

The Board shall appoint an Actuary for the Scheme and shall ensure that the financial position of the Scheme is examined by the Actuary so appointed as required by the Superannuation Schemes Act 1989 and the Act and that the requirements of those Acts in relation to actuarial examinations are complied with.

37A TRANSFER OF PENSIONERS TO PENSION SCHEME

29/4/09

37A.1 Subject to **clause 37A.6**, on any person becoming entitled, on or after such date as the Board may determine, to a pension or allowance under this Scheme, whether as the result of making an Election or otherwise, but excluding an allowance payable under **clause 16**, the Board shall transfer that person and the liability to pay the pension or allowance to that person, to the Pension Scheme PROVIDED THAT if a person Elects in accordance with this Deed to defer receipt of their pension the Board shall defer transfer of the pension to the Pension Scheme until such time as the person Elects or is deemed to have Elected to commence receipt of their pension.

- 37A.2 Subject to **clause 37A.6**, the Board may, on such date as it may determine, transfer all persons already receiving a pension or allowance under this Scheme (other than an allowance payable under **clause 16**), and the liability to pay their pensions or allowances, to the Pension Scheme.
- 37A.3 Any pension to be transferred (*the transferred pension*) under **clause 37A.1** or **clause 37A.2** shall include:
- 37A.1 any pension, allowance or other Benefit payable or contingently payable under any of **Parts IV, V, or VII** of this Deed or otherwise to any other person as a result of the death of the person receiving the transferred pension or otherwise consequential on entitlement to the transferred pension; and
 - 37A.2 any minimum payment that would have applied in relation to the transferred pension under the terms of this Scheme or of which the Board has advised the Contributor.
- 37A.4 On transfer of the liability to pay any pension or allowance under **clause 37A.1** or **clause 37A.2** the Board shall transfer from this Scheme to the Pension Scheme, assets with a value as determined by the Board (having considered the advice of the Actuary) to meet the liability so transferred.
- 37A.5 On transfer of the liability to pay any pension or allowance under **clause 37A.1** or **37A.2** and assets under **clause 37A.4** the pension or allowance so transferred shall be payable from the Pension Scheme and neither the person so transferred nor any other person shall be entitled to receive any further payment from this Scheme in respect of that pension or allowance.
- 37A.6 The Board must not transfer the liability to pay the pension or allowance of a person from this Scheme to the Pension Scheme unless it is satisfied, after considering the advice of the Actuary, that:
- 37A.6.1 the terms of that person's pension or allowance under the Pension Scheme are not materially and adversely different from the terms on which that person's pension or allowance would have been paid under this Scheme; and
 - 37A.6.2 the transfer of assets from this Scheme to the Pension Scheme under **clause 37A.4** is fair and equitable to that person and to

all members and beneficiaries of this Scheme materially affected by the transfer.

PART XI

DISCRETIONARY TRANSFERS

- 26/11/93 **38 RESERVED**
- 26/11/93 **38A ELECTIONS TO TRANSFER**
- 26/11/93 38A.1 Any Member of this Scheme, other than a Beneficiary in receipt of a Benefit from this Scheme, a Contributor who has Elected to cease to be a Contributor under **clause 6.1** or a Contributor who has ceased to be a Contributor under **clause 4.4**, may:
- 38A.1.1 Elect to transfer to another Superannuation Scheme which is registered under the Superannuation Schemes Act 1989 (referred to in this Part XI as a “Registered Superannuation Scheme”); and
- 38A.1.2 having made an Election to transfer and subject to this Part XI, transfer to another Registered Superannuation Scheme.
- 38A.2 Any Member who Elects to transfer under this **clause 38A** shall complete an “election to transfer notice” in the form prescribed by the Board.
- 1/4/98 38A.2A The Board (or, if the Board shall so agree in writing and on such terms and conditions as the Board shall determine, the Administration Manager) shall consider, and decide whether to accept, the Member’s Election to transfer.
- 26/11/93 38A.3 The Board is not obliged to accept a Member’s Election to transfer under this **clause 38A** unless it is satisfied that:
- 38A.3.1 the trustees of the Registered Superannuation Scheme to which the Member has Elected to transfer (referred to below as the “other scheme”) are able and have agreed to accept:
- 38A.3.1.1 the Member as a transferring member of the other Scheme; and

38A.3.1.2 the terms on which the Member's Transfer Value or any Withdrawal Payment (as defined in **clause 38C.3**) will be payable; and

38A.3.2 the other scheme is governed by a trust deed under which the Transfer Value is fully vested to the transferring member immediately on payment of that amount to the other scheme,

and for this purpose the Board may require the trustees of the other scheme to certify to that effect.

26/11/93
1/4/98 38A.4 [Reserved]

26/11/93 **38B CONSEQUENCES OF TRANSFER**

26/11/93 38B.1 Once an Election to transfer under **clause 38A** has been accepted by the Board, the Transfer Value for the Transferred Member shall be calculated by the Board.

26/11/93
1/4/98 38B.2 The Transfer Value for a Transferred Member shall be calculated as at a date determined by the Board (such date being referred to in this Part XI as the "Transfer Date") being a date not earlier than, and not more than 14 days after, the date the completed election to transfer notice was received by the Board. Subject to section 50(2)(c) of the Act, the Transfer Value for any Transferred Member as at the Transfer Date shall be an amount determined by the Board as being equal to:

38B.2.1 the amount determined as at the Examination Date to be the present value of the accrued benefits to which the Transferred Member was entitled at the Examination Date (using the same actuarial basis as is used to calculate TB) adjusted by multiplying the amount so determined by the ratio TA/TB

Where:

38B.2.2 TA is the market value of the Property of the Scheme as at the Examination Date; and

38B.2.3 TB is the present value of the accrued benefits of all Members and Beneficiaries of this Scheme as at the Examination Date; plus

38B.2.4 all contributions paid into the Scheme by the Transferred Member under **clause 4** after the Examination Date (referred to in this **clause 38B** as the "Contribution Amounts") other than amounts paid in respect of benefits accrued as at the Examination Date; plus (or minus, in the case of a negative rate)

38B.2.5 earnings (less withholdings, if any, required to be made by law) at the rate assumed by the Actuary in the examination of the Scheme made as at the Examination Date which shall be credited (or debited in the case of a negative rate) to the amount determined under **clause 38B.2.1 - clause 38B.2.3** for the period from the Examination Date until the Transfer Date; plus (or minus, in the case of a negative rate)

38B.2.6 earnings (less withholdings, if any, required to be made by law) at the rate assumed by the Actuary in the examination of the Scheme made as at the Examination Date which shall be credited (or debited in the case of a negative rate) to the Contribution Amounts for the period for which the Contribution Amounts were in the Scheme on such basis as the Board may determine;

PROVIDED THAT, where the Board considers that there are circumstances which make the application of the earnings rate specified in **clause 38B.2.5** or **clause 38B.2.6** inequitable to the Transferred Member or the Scheme, the earnings rate which applies in all or any part of the period between the Examination Date and the Transfer Date or in all or any part of the period for which any Contribution Amount was in the Scheme (as appropriate) shall be such rate as the Board may determine to be equitable in the circumstances;

PROVIDED FURTHER THAT, where the Board considers that there are circumstances which make the determination of the Transfer Value for any Transferred Member in accordance with this **clause 38B.2** inequitable to the Transferred Member or the Scheme because the Unit Amount applying after the Examination Date is greater than or less than the Unit Amount used in the calculation made under **clause 38B.2.1**, the Transfer Value shall be determined as if the Unit Amount had been such amount as the Board may determine to be equitable in the circumstances and the Board may vary the earnings rate to be applied under **clause 38B.2.5** accordingly.

- 26/11/93 38B.3 For the purposes of section 50(2) of the Act, **clause 38B.2** has been approved in writing by the Minister of Finance.
- 26/11/93 38B.4 Transfer Values shall remain in this Scheme until payable under **clause 38C**, and as soon as practicable after the end of each Financial Year for the Scheme, Transfer Values shall be credited (or debited, in the case of a negative rate) on such basis as the Board determines with earnings (less withholdings, if any, required to be made by law) at the Transfer Value Earnings Rate declared in respect of that Financial Year under **clause 38B.7.2** (and where a Transfer Value has been held in this Scheme for less than 12 months, that rate shall be applied on such proportionate basis as the Board shall determine).
- 26/11/93 38B.5 Where during a Financial Year for this Scheme a Transfer Value is payable in accordance with **clause 38C**, the Transfer Value shall be credited (or debited, in the case of a negative rate) with earnings (less withholdings, if any, required to be made by law) for the period from the later of the Transfer Date and the last day as at which earnings were credited (or debited) under **clause 38B.4** to the date of payment at:
- 38B.5.1 the latest Transfer Value Earnings Rate declared in respect of that Financial Year under **clause 38B.7.1**; or
- 38B.5.2 if no such rate has been declared in respect of that Financial Year, such rate as the Board shall determine,
- which rate shall be applied on such proportionate basis as the Board shall determine.
- 26/11/93 38B.6 No contributions to this Scheme shall be payable by or on behalf of a Transferred Member and a Transferred Member shall not be a Contributor (or a Continuous Contributor) for the purposes of this Scheme. A Transferred Member shall however remain a Member until the Transfer Value or a Withdrawal Payment has been paid under **clause 38C** except for the purposes of **clause 28** and **clause 39**. Nothing in this **clause 38B.6** shall prejudice **clause 38C.2** or **clause 38C.3** and **clause 4.8**, **clause 29** and **clause 34** shall continue to apply to the Transferred Member as if the Transferred Member were a Contributor.
- 26/11/93 38B.7 For the purposes of this Part XI, "Transfer Value Earnings Rate" means an annual earnings rate (which may be a negative or zero rate) which:

38B.7.1 may be declared by the Board from time to time in respect of a Financial Year for the Scheme; and

38B.7.2 shall be declared by the Board in respect of each Financial Year for the Scheme as soon as practicable after the end of that Financial Year,

for the purposes of this **clause 38B**, after receiving the advice of the Actuary and having regard to the net investment earnings rate of this Scheme.

26/11/93 **38C WHEN TRANSFER VALUES PAYABLE**

26/11/93 38C.1 Subject to **clause 38C.2**, **clause 38C.3** and **clause 38C.4**, the Transfer Value for a Transferred Member shall become payable in one lump sum to the Registered Superannuation Scheme to which the Transferred Member has transferred (“the elected scheme”) (or to another Registered Superannuation Scheme nominated by the Transferred Member and approved by the Board in the event that the elected scheme for any reason is unable to receive such payment), on the earliest to occur of the following:

38C.1.1 the date of the completion of the “tax loss period” (as defined in **clause 38C.5**); or

38C.1.2 1 April 1998; or

38C.1.3 the date of the winding up of this Scheme,

(the period between the Transfer Date and the earliest to occur of the above, in respect of any Transferred Member, being referred to below as the “Transfer Period”);

PROVIDED THAT where the Transferred Member’s Election to transfer has been accepted by the Board on or after the earlier of the dates referred to in **clause 38C.1.1** and **clause 38C.1.2**, then subject to **clause 38C.2**, **clause 38C.3** and **clause 38C.4**, the Transfer Value for the Transferred Member shall be payable on the earlier of:

38C.1.4 such date as may be agreed between the Board and the trustees of the Registered Superannuation Scheme to which the Transfer Value is payable; or

38C.1.5 the date of the winding up of this Scheme,

and the Transfer Period will be the period between the Transfer Date and the earlier of such dates.

26/11/93 38C.2 If a Transferred Member (or his Widow or his or her estate in the event of death) would have become entitled to a Benefit during the Transfer Period under **clause 8.4, clause 9 or clause 15** if the Transferred Member had remained a Contributor then, subject to **clause 38C.3** and **clause 38C.4**, the Transfer Value shall, on the application in writing of the Transferred Member, Widow or representative of the estate (as appropriate) to the Board, become payable in one lump sum to the Transferred Member, Widow or estate (as appropriate).

26/11/93 38C.3 During the Transfer Period and prior to attaining the age of sixty a Transferred Member may make application to the Board for payment under this **clause 38C.3** and in that event the Transfer Value shall not be payable to or in relation to the Transferred Member and instead an amount (referred to in this Part XI as the "Withdrawal Payment") calculated in accordance with **clause 6.2** (and less any amount paid under **clause 38C.2**) shall become payable to the Transferred Member in one lump sum and shall be calculated as if the Transferred Member had:

38C.3.1 remained a Contributor; and

38C.3.2 had no further contributions made to this Scheme by or on behalf of that person after the Transfer Date; and

38C.3.3 withdrawn from this Scheme under **clause 6** at the same time as making the application for payment under this **clause 38C.3**.

26/11/93 38C.4 The Board shall not be required to pay out any Transfer Value under **clause 38C.1 or clause 38C.2**, or any Withdrawal Payment under **clause 38C.3**, until such time as it has been able to convert the Property of this Scheme which represents that Transfer Value or Withdrawal Payment to cash (or, where the Transfer Value is payable to the trustees of a Registered Superannuation Scheme, and the Board agrees to make the payment in Property other than cash, other Property acceptable to the Board and those trustees) and for the purposes of this **clause 38C.4** the Board shall not be required to convert any Property of this Scheme to cash or other Property if to do so would or might, in the opinion of the

Board, unduly prejudice the value of the Property of this Scheme representing other Members' and Beneficiaries' interests in this Scheme.

26/11/93 38C.5 For the purposes of this **clause 38C**, "tax loss period" means the period of time (as determined by the Board) during which companies wholly owned by the global asset trust (as defined in the Act) may access tax losses of DFC New Zealand Limited (under statutory management) and its associated companies, or receive payments in relation to those tax losses, by virtue of arrangements entered into by the Board, and such further period of time as the Board may deem necessary or desirable to ensure that the benefits from such tax losses or payments are able to be claimed or are available with certainty.

26/11/93 **38D OTHER PROVISIONS RELATING TO TRANSFERS OUT**

26/11/93 38D.1 Subject to **clause 38B.6**, nothing in this Part XI shall limit any right contained in any other Part of this Deed for any Contributor to transfer to any other Superannuation Scheme.

26/11/93 38D.2 Nothing in this Part XI shall confer upon any person any right to require the Board to provide for transfers from this Scheme to any other Superannuation Scheme.

26/11/93 38D.3 The Board shall be under no obligation or liability to see to the application of any amount paid (or Property transferred) to the trustees of any Registered Superannuation Scheme or any other person under this Part XI.

PART XII

WINDING UP

39 WINDING UP

39.1 Subject to **clause 39.4**, this Scheme may be wound up only at the direction of the Minister of Finance after consultation with the Board and shall be wound up in accordance with any such direction.

26/11/93

39.2 In the event of the Scheme being wound up, the Property of the Scheme shall be realised and the proceeds of that realisation (after deduction of any costs properly incurred in the course of the winding up) shall be allocated pro rata among the remaining Members, and the Beneficiaries then in receipt of a pension from the Scheme, on a basis that takes account of their interests and period of membership in the Scheme. The minimum amount payable to each such Member and Beneficiary under any such pro rata allocation shall be the amount referred to in **clause 39.4**.

39.3 The amounts payable on a winding up of the Scheme shall be paid as cash lump sums.

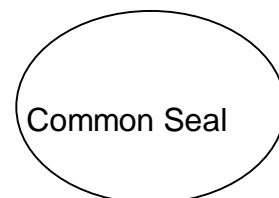
39.4 The Scheme may not be wound up unless there will be sufficient proceeds available after realisation of the Property of the Scheme, after deduction of the costs properly incurred in connection with such winding up, to pay each Member and Beneficiary referred to in **clause 39.2** an amount equal to the present value of that Member's or Beneficiary's future Benefits payable from the Scheme, as determined by the Board on the recommendation of the Actuary.

39.5 The Board shall advise the Government Actuary as soon as practicable after the winding up of this Scheme that the distribution of assets has been completed.

39.6 Nothing in this **clause 39** shall restrict the power of the Government Actuary under section 20 of the Superannuation Schemes Act 1989 to order the winding up of this Scheme.

IN WITNESS WHEREOF this Deed was executed on the date first written above.

THE COMMON SEAL of the)
BOARD OF TRUSTEES OF THE)
NATIONAL PROVIDENT FUND)
 was hereunto affixed on the)
 30th day of March 1993 in the presence of:)



 "C.J. Vandersyp"

Authorised Signatory

 "N.G.A. Young"

Authorised Signatory

FIRST SCHEDULE

Age Last Birthday of Contributor When First Contribution Made	Table A Annual Contribution Required to Secure an annual Pension of the Unit Amount at Age 60 and of each additional Unit Amount other than where clause 8.2 applies		Table B Annual Contribution Required to Secure an annual Pension of the third and each subsequent Unit Amount where clause 8.2 applies	
	Male \$	Female \$	Male \$	Female \$
16	5.72	5.72	6.76	5.72
17	5.72	5.72	7.02	5.72
18	5.98	5.98	7.28	5.98
19	6.24	5.98	7.28	5.98
20	6.50	6.24	7.54	6.24
21	6.76	6.50	8.06	6.50
22	7.28	7.02	8.32	7.02
23	7.54	7.28	8.84	7.28
24	8.06	7.80	9.36	7.80
25	8.32	8.32	9.88	8.32
26	8.84	8.32	10.14	8.32
27	9.36	8.84	10.66	8.84
28	9.88	9.36	11.18	9.36
29	10.14	9.88	11.96	9.88
30	10.92	10.40	12.48	10.40
31	11.44	11.18	13.26	11.18
32	12.22	12.22	14.04	12.22
33	12.74	12.74	15.08	12.74
34	13.52	13.52	15.86	13.52
35	14.56	14.56	16.64	14.56
36	15.34	15.34	17.68	15.34
37	16.38	16.38	18.98	16.38
38	17.68	17.68	20.28	17.68
39	18.72	18.98	21.58	18.98
40	20.28	20.28	22.88	20.28
41	21.58	22.10	24.70	22.10
42	23.40	23.92	26.52	23.92
43	25.22	26.26	28.60	26.26
44	27.30	28.60	31.20	28.60
45	29.38	31.20	34.06	31.20
46	31.98	33.80	36.92	33.80
47	35.36	37.44	40.82	37.44
48	39.00	41.86	44.98	41.86
49	43.42	47.06	49.92	47.06

SECOND SCHEDULE**SCALE OF ALLOWANCES FOR INCAPACITATED CONTRIBUTORS
AND FOR THE WIDOWS AND CHILDREN OF DECEASED
CONTRIBUTORS**

- 1 In respect of every Child of a deceased or incapacitated Contributor, so long as that Child is under the age of sixteen years, an allowance shall be payable at the rate of \$1 a week.
- 2 In respect of the Widow of a deceased Contributor, if and so long as any Child of that Contributor is under the age of sixteen years, an allowance shall be payable at the rate of \$1 a week.
- 3 The above-mentioned allowances shall be calculated from time to time in accordance with the number of Children for the time being under the age of sixteen years, and shall cease when there is no longer any Child under that age.
- 4 No allowance under this Second Schedule shall be payable for a longer aggregate period than sixteen years, whether in respect of the incapacity or the death of a Contributor, or partly in respect of his incapacity and partly in respect of his death, and whether in respect of the same or of different periods of incapacity.

THIRD SCHEDULE**SECTION 38 NATIONAL PROVIDENT FUND RESTRUCTURING ACT
1990**

38. (1) No person is entitled to be a contributor to any existing scheme unless that person -
- (a) Was a contributor to that scheme immediately before the transfer day; or
 - (b) Was a contributor to another existing scheme immediately before the transfer day and is a person, or a person of a kind, whom the Board, in its discretion and after consultation with the Minister, has agreed may contribute to that scheme.
- (2) Any person -
- (a) Who has, before the transfer day, contributed to an existing scheme; and
 - (b) Whose contributions, or part of whose contributions, remain in the scheme on the transfer day -
- shall, for the purposes of this section, be deemed to have been a contributor to that existing scheme immediately before the transfer day.
- (3) Any employer -
- (a) Who was not a contributor to an existing scheme immediately before the transfer day; and
 - (b) Who, after the transfer day, is or becomes the employer of an employee who was a contributor to an existing scheme immediately before the transfer day -
- may, notwithstanding subsection (1) of this section but subject to the terms of the existing scheme, contribute to any existing scheme to which that employee contributes, as a corporate contributor, for the purpose of subsidising that employee's contributions or obtaining a benefit for that employee.

- (4) Nothing in this section limits -
 - (a) The terms of any existing scheme; or
 - (b) Any other provision of this Act.

LEVEL PREMIUM SCHEME

TRUST DEED

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