



**ANNOTATED TRUST DEED  
for  
EMPLOYER SUBSIDISED NATIONAL PROVIDENT FUND  
NATIONAL SUPERANNUATION SCHEME  
FOR THE MEAT INDUSTRY**

**(dated 21 September 2016, effective 20 October 2016)**

**This is an Annotated Trust Deed for the Scheme and is not the official signed trust deed that governs the Scheme. The Scheme trust deed is subject to change. Therefore, if you wish or need to rely on the terms of the trust deed, please contact the Scheme Administrator for a copy of the signed trust deed.**

**Marginal dates indicate that text in the sub-clause (including any subsequent clauses included under that sub-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.**

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## ANNOTATED TRUST DEED

### TRUST DEED PREPARED PURSUANT TO SECTION 45 OF THE NATIONAL PROVIDENT FUND RESTRUCTURING ACT 1990 AND APPROVED BY THE MINISTER OF FINANCE PURSUANT TO SECTION 49 OF THAT ACT.

#### WHEREAS:

- 30/3/93      **A.**    The Employer Subsidised National Provident Fund National Superannuation Scheme for the Meat Industry was established under the National Provident Fund Act 1950.
- B.**    The Scheme was established in 1973. The present rules were executed on 31 March 1987 and were amended by a scheme document dated 23 March 1990.
- 30/3/93      **C.**    By section 45 of the National Provident Fund Restructuring Act 1990 ("the Act") the Board is required to prepare a Trust Deed ("this Deed") for the Scheme.
- D.**    Under Part IV of the Act certain provisions must or may be contained in this Deed.
- 20/10/16     **E.**    This Deed has been amended from time to time.
- 20/10/16     **F.**    Under section 59A of the Act, certain provisions of the Financial Markets Conduct Act 2013 ("the FMC Act") apply to the Scheme on and after the effective date for the Scheme in accordance with clause 19 of Schedule 4 of the FMC Act. In particular, the Scheme must comply with certain governance requirements of the FMC Act. One of these governance requirements is that this Deed must comply with the requirements of the FMC Act.
- 20/10/16     **G.**    The effective date for the Scheme is the earlier of the following dates: (a) the date that the issuer of the Scheme elects; or (b) 1 December 2016.
- 20/10/16     **H.**    This Deed has been amended to comply with the requirements of the FMC Act.
- 20/10/16     **I.**    This Deed records the terms under which the Scheme is constituted and governed.

#### NOW THEREFORE THIS DEED WITNESSES AS FOLLOWS:

### PART I

#### GENERAL

#### 1      TITLE

This Deed is the Trust Deed for the Employer Subsidised National Provident Fund National Superannuation Scheme for the Meat Industry ("this Scheme").

**1A FMC ACT**

20/10/16 1A.1 For the purposes of the FMC Act:

1A.1.1 this Scheme is treated as a trust established and governed by a trust deed interpreted and administered in accordance with New Zealand law;

1A.1.2 and for the purposes of any other enactment, this Scheme must be treated as if it were registered on the register of managed investment schemes under the FMC Act as a restricted scheme that is a Superannuation Scheme; and

1A.1.3 the Board is the 'manager' and the 'issuer' of the Scheme.

**2 DEFINITION AND CONSTRUCTION**

2.1 In this Deed, unless inconsistent with the context:

**"Act"** means the National Provident Fund Restructuring Act 1990.

30/3/93 **"Actuary"** means a person who is a Fellow of the New Zealand Society of Actuaries, who has been appointed by the Board under **clause 36** and whose appointment has not been terminated.

8/4/98 **"Administration Manager"** means a person appointed by the Board to manage the administration of the Scheme under **clause 27.1**.

30/3/93 **"Applied Earnings Rate"** means the Earnings Rate plus any Reserve Account distributions (expressed as an annual rate) under **clause 19.1.4**.

20/10/16 **"Auditor"** means the person or firm appointed as auditor of the Scheme under **clause 44**.

**"Beneficiary"** means a natural person who is eligible to receive a Benefit from this Scheme.

30/3/93 **"Benefit"** has the same meaning as in the Act.

1/12/98 **"Benefit Credit"** means the amount determined under **clause 19AA**.

**"Board"** means the National Provident Fund Board established under section 9 of the National Provident Fund Act 1950, as continued in existence by section 12 of the Act and renamed from 1 April 1991 by that section as the Board of Trustees of the National Provident Fund.

30/3/93 **"Bonus"** means that part (if any) of the amount added to a Contributor's Total Credit under **clause 16.1** which is allocated as a bonus under **clause 16.2.2**.

**"Child"** in relation to any person, includes:

- (a) A child of the person who is born after that person's death; and
- (b) A child in respect of whom an interim order under section 5 of the Adoption Act 1955 in favour of that person is in force or was in force immediately before death of that

person; and

- (c) A child in respect of whom an adoption order is made within one year after the death of the person in favour of a spouse of the person, if (but only if) the person is the relevant contributor; and
- (d) A stepchild of the person, if (but only if) the Board consents.

22/11/91  
30/3/93 **“Contributor”** means a person who has entered into an agreement of the type referred to in **clause 3.1** and who has contributed to this Scheme in accordance with Part II.

**“Contributing Employer”** means the employer who is subsidising the Contributor’s contributions to the Board under this Scheme by agreement with the Board.

30/3/93 **“Earnings Rate”** means the earnings rate declared by the Board from time to time under **clause 16.1** (being the aggregate of the Interest Rate and any amount allocated as a Bonus).

**“Elect”** means to elect in writing, addressed and delivered or posted to the Board, and ‘Election’ shall have a corresponding meaning.

20/10/16 **“Employee”** means any person who is engaged to work or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical or professional work, or otherwise but does not include any person who would have been a ‘shareholder-employee’ (where a ‘shareholder employee’, in relation to any income year and to any company, means any person who, at any time in that income year, is an officer or employee of that company and who (i) at any time in that income year holds 50 percent or more of the paid-up capital, or of the nominal value of the allotted shares, or of the voting power in that company; or (ii) at any time in that income year has, by any means whatsoever, control of that company; or (iii) by reason of his shareholding at the end of that income year would be entitled to 50 percent or more of the profits of that company for that income year if those profits were distributed by way of dividend at the end of that year).

30/3/93 **“Employee Contributions”** means the contributions paid by the Contributor and deducted from the Contributor’s remuneration.

**“Employer Contributions”** means the contributions under **clause 4.5**.

29/2/96  
16/3/00 **“Exempted Contributor”** means:

- (a) a Contributor who first became a Contributor on or after 1 January 1996; and
- (b) a Contributor who rejoined this Scheme on or after 1 January 1996, not being a person who was a Member of this Scheme on 1 February 1994;

**“Financial Year”** means the period of 12 months ending with the 31st day of March;

20/10/16 **“FMA”** means the Financial Markets Authority (or any successor organisation).

20/10/16 **“FMC Act”** means the Financial Markets Conduct Act 2013.



- 21/7/93            **"Frozen Member"** means a Member who has made an Election to transfer under **clause 27A** and whose Election to transfer has been accepted by the Board.
- 30/3/93            **"Interest Rate"** means the rate of interest declared by the Board from time to time under **clause 16.2.1**, and if there is no rate so declared in relation to any particular Financial Year, a reference to the "Interest Rate" declared under **clause 16.2.1** shall be deemed to be a reference to the Earnings Rate declared under **clause 16.1** in relation to that Financial Year.
- 30/3/93            **"Member"** means a natural person who has been admitted to membership of this Scheme and who is, or may become, entitled to Benefits under this Scheme.
- 29/3/11            **"Minimum Amount"** means an amount specified by the Board from time to time.
- 1/5/99             **"Minimum Pension"** means the amount determined by the Board from time to time under **clause 19B**.
- 29/2/96            **"Nominee"** in relation to a Contributor who is alive, means a natural person who has been nominated by a Contributor and accepted by the Board in accordance with **clause 8.1**.
- 30/3/93            **"Pension"** means a non-assignable and non-commutable annual amount calculated in accordance with **clause 15.3** and payable for life to a Contributor or a Spouse or Surviving Spouse of a Contributor, or, in accordance with **clause 10.1**, for the joint lives of a Contributor and the Contributor's Spouse.
- 30/3/93            **"Pension Account"** means the account established under **clause 19A**.
- 1/5/99             **"Pension Scheme"** means the National Provident Pension Scheme established by Trust Deed dated 20 April 1999.
- 30/3/93            **"Permanent Incapacity"** means permanent physical or mental incapacity suffered by any person that is of such an extent that, having regard to the previous employment and other characteristics of that person, that person is unlikely to have a significant earning capacity in the future.
- "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 (as defined in the Act) and any GAT subsidiary (as defined in the Act) which is a unit 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.

- 22/11/91      **“Redundant”** in relation to a Contributor, means that the Contributor’s employment (including seasonal employment) with a Contributing Employer is terminated (either by compulsion or by agreement, but not including a seasonal lay-off or the completion of a fixed term engagement) as a result of:
- (a) the Contributor’s employment becoming superfluous to the needs of the Contributing Employer; or
  - (b) in the case of a Contributor who is a seasonal worker, the Contributor’s usual seasonal employment becoming unavailable because it has become superfluous to the needs of the Contributing Employer;
- 30/3/93      **“Relevant Employers Organisation”** means the Meat Industry Association of New Zealand (Inc) or any body or association regarded by the Board as a successor to or predecessor of that organization.
- 20/10/16
- “Reserve Account”** means the account established under **clause 18**.
- “Retirement Age”** means age 60, or such later age as shall apply under **clause 9**.
- 30/3/93      **“Spouse”** means a woman or man to whom the Contributor is married and may include, whether or not the Contributor is legally married to another person, a woman or man whom the Board in its discretion regards as being the wife or husband or partner of the Contributor, being a person who although not legally married to the Contributor has lived as that Contributor’s wife or husband or partner on a permanent domestic basis for such period as the Board determines.
- 29/2/96
- 20/10/16      **“Superannuation Scheme”** has the meaning given to it in the Act.
- 29/2/96      **“Surviving Nominee”** in relation to an Exempted Contributor who has died means a natural person who has been nominated by the Contributor and accepted by the Board in accordance with **clause 8.1** at the time of the Contributor’s death.
- 30/3/93      **“Surviving Spouse”** in relation to a Contributor who has died, means a woman or man to whom the Contributor was married immediately before the Contributor’s death, and may include, whether or not the Contributor was legally married to another person, a woman or man whom the Board in its discretion regards as having been the wife or husband or partner of the Contributor immediately before death, being a woman or man who although not legally married to the Contributor had lived as that Contributor’s wife or husband or partner on a permanent domestic basis for such period as the Board determines.
- 29/2/96
- 30/3/93      **“Total Credit”** in relation to a Contributor means the aggregate of:
- 1/12/98
- (a) The Employer Contributions made in respect of that Contributor;
  - (b) The Contributor’s contributions;
  - (c) Any Reserve Account distributions made under **clause 19.1.4** in respect of that Contributor;
  - (d) Any other amounts credited to that Contributor’s Total Credit under any provision of

this Deed except under **clause 19AA**; and

- (e) Earnings added or allocated to that Contributor's Total Credit or to any of the above amounts under this Deed to the extent not already included in any of the preceding paragraphs of this definition.

30/3/93 **"Transfer Credit"** in relation to a Contributor means the Contributor's Total Credit less the aggregate of:

- (a) All Bonuses; and  
 (b) Earnings (at the Applied Earnings Rate) on such Bonuses.

21/7/93 **"Transfer Value"** in respect of any Frozen Member and at any time, means:  
 1/12/98

- (i) the dollar amount calculated under **clause 27B.2**; plus  
 (ii) an amount equal to the earnings that have been credited at or prior to that time under **clause 27B.3**; plus  
 (iii) an amount equal to the earnings that have been credited at or prior to that time under **clause 27B.4**.

30/3/93 **"Unions"** means the New Zealand Meat Workers and Related Trades Union Incorporated and the Auckland and Tomoana Freezing Works, Abattoir and Related Trades Employees Industrial Union of Workers Incorporated, or any body or association regarded by the Board as a successor to or predecessor of either of those organisations.

**"Week's Service"** means a week in relation to a Contributor during the whole of which that Employee has been employed without interruption due to industrial stoppages and the Employee has performed all duties lawfully required of the Employee as and when required or has been ready, willing and available for the ordinary time required in accordance with the terms of the Employee's employment. Employment shall be deemed to have been not interrupted in respect of any period during which the Contributor has been permitted by the employer to desist or be absent from work for reason of sickness, injury or for any other authorised reason or by reason of attendance at any departmental stopwork meeting of not more than two hours duration or at any general works meeting for which two clear working days' notice has been given to the work's manager. The employer shall be entitled to call for such evidence, including medical certificates as the employer in its absolute discretion deems necessary or desirable in considering any request for authorised absence for which the employer's permission is required in terms of this clause.

30/3/93 2.2 Unless inconsistent with the context, 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.

30/3/93 2.3 In the construction of this Deed, unless inconsistent with the context:

- 2.3.1 References to **clauses** and Parts are to clauses and parts of 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 these

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, and words importing any gender include the other genders;
- 2.3.4 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

- 22/11/91 3.1 Subject to **clause 3.2** and **clause 3.3** any Employee employed by a Contributing Employer that is a member of the Relevant Employers Organisation engaged in the meat industry and that is eligible to become a Contributor to this Scheme under **clause 3.1.1** and **clause 3.1.2**, may enter into an agreement to become a Contributor by completing jointly with the Employee's employer the prescribed application form and posting this form to the Board. Membership of this Scheme shall commence on the date that such agreement is entered into.
- 30/3/93
- 20/10/16
- 3.1.1 Any Employee who is employed by a Contributing Employer shall be eligible for membership of this Scheme after two consecutive seasons during each of which the Employee has been employed for ten continuous weeks from the date of commencement of employment in the industry or for such lesser continuous period as the employer may require of the Employee in each consecutive season provided that such a period is for a minimum of four weeks; the beginning of such period of continuous employment during the second season to be not more than 52 weeks from the beginning of such period of continuous employment during the first season. For the purpose of this **clause 3** each season shall be deemed to run from 1 October to 30 September.
- 3.1.2 Every eligible Employee may become a member of this Scheme provided however that an Employee who is already a member of any other Superannuation Scheme or fund to which the Employee's employer is a contributing employer shall not be eligible to become a member of this Scheme.
- 30/3/93 3.2 No person may become a Contributor to this Scheme unless the person:
- 3.2.1 Is resident in New Zealand;
- 3.2.2 Is over 15 years of age;
- 3.2.3 Is under 50 years of age, or the Board has, in its discretion, accepted the person as a Contributor.
- 30/3/93 3.3 Only persons who satisfy the requirements of section 38 of the Act may become Contributors to this Scheme. For ease of reference, a copy of section 38 (in the form as at 8 May 1992) is annexed to this Deed.

#### 4 CONTRIBUTIONS

Contributions to this Scheme shall be made as follows:

- 30/3/93 4.1 Each Contributor shall make regular contributions to the Scheme of a sum equivalent to the rate of 2, 3 or 5 percent of the minimum weekly wage as set out in the applicable employment contract or such other amount as specified by the Contributing Employer after consultation with member representatives **PROVIDED THAT** any such other amount shall not be less than the contribution rate as applicable at 14 May 1991.
- 30/3/93 4.2 Each Contributor shall irrevocably authorise the Contributor's employer to deduct for the whole of the current season as described in **clause 3.1.1** the Contributor's contributions from the Contributor's weekly pay and to remit such contributions to this Scheme;
- PROVIDED THAT** any Contributor may elect to change from one rate of contribution to another once only at the commencement of employment in each Financial Year. For the purpose of this **clause 4** a Financial Year shall be from 1 April to the next succeeding 31 March.
- 4.3 Deductions shall be made from holiday pay where this involves one or more full week's holiday pay.
- 4.4 The weekly contribution under **clause 4.1**, **clause 4.2** and **clause 4.3** shall be reduced by one-fifth for each day of any week during which an Employee's employment has been interrupted otherwise than has been provided for in the definition of "Week's Service".
- 22/11/91 4.5 The Contributing Employer shall also make regular contributions to this Scheme in respect of the Contributor at the same rates and for the same period or periods as those referred to in **clause 4.1**, **clause 4.2**, **clause 4.3** and **clause 4.4** to the effect that the Contributing Employer shall subsidise only on a \$1 for \$1 basis the Employee Contributions.
- 30/3/93 4.6 The credits a Contributor has accrued with any other Superannuation Scheme (including an overseas Superannuation Scheme) may be transferred to this Scheme and shall be credited to the Contributor's Total Credit.

#### 5 DEDUCTION AND PAYMENT OF CONTRIBUTIONS

- 30/3/93 The Contributing Employer shall deduct the weekly contributions of each Contributor from the remuneration due to that Contributor. All contributions must be remitted to this Scheme by the 20th of the month following the month in which deductions were made or as otherwise arranged with the Board. Interest at such rate as may be fixed by the Board from time to time may be levied against the employer on late payments.

#### 30/3/93 6 LEAVING CONTRIBUTIONS IN SCHEME

- 30/3/93 6.1 A Contributor may Elect to suspend or cease contributions and leave the Contributor's Total Credit in this Scheme without losing any rights (including in particular any vesting rights) in

respect of such Total Credit.

- 30/3/93 6.2 The Contributor's Total Credit left in this Scheme shall continue to attract earnings at the Applied Earnings Rate.
- 30/3/93 6.3 Any Contributor who Elects to cease or suspend contributions under **clause 6.1** may recommence contributions in accordance with **clause 4.1** at any time for so long as the Contributor remains employed by a person who is a member of the Relevant Employers Organisation engaged in the meat industry and who has entered into an agreement with the Board to subsidise the Contributor's contributions to this Scheme.
- 30/3/93 6.4 All contributions made under the National Superannuation Scheme for the Meat Industry issued in 1973 will be deemed to be contributions made to this Scheme and will be subject to the provisions of this Scheme.

### PART III

#### WITHDRAWALS

#### 7 WITHDRAWAL RIGHTS

- 30/9/91 7.1 **Before 5 Years' Service**  
30/3/93

Where less than 5 years has elapsed from the date on which a Contributor (not being a Contributor to whom **clause 7.7** applies) became a Contributor, that Contributor may on leaving the industry make an election to withdraw, and shall be entitled to receive from this Scheme no later than the expiration of a period of 3 months from the date on which the election is delivered, in lieu of any other Benefit, a refund of:

- 7.1.1 the Contributor's contributions, together with;
- 7.1.2 earnings thereon at the Interest Rate allocated under **clause 16.2.1**; but less
- 7.1.3 an amount equal to the Board's estimate of the Bonuses likely to be earned on those contributions and earnings thereon during the period from the date on which the refund is made to the date that is five years after the date on which the Contributor became a Contributor.

The balance of the Contributor's Total Credit will be transferred to the Reserve Account provided that a Contributor over age 55 years shall be entitled to the withdrawal Benefit under **clause 7.3**.

- 30/9/91 7.1A **After 5 Years' Service**  
30/3/93

Where not less than 5 years has elapsed from the date on which a Contributor became a Contributor, that Contributor may on leaving the industry make an election to withdraw, and shall be entitled to receive from this Scheme no later than the expiration of a period of 3 months from the date on which the election is delivered, in lieu of any other Benefit, a refund of the Contributor's contributions together with earnings thereon at the Interest Rate allocated under **clause 16.2.1**. The balance of the Contributor's Total Credit will be transferred to the Reserve Account provided that a Contributor over age 55 years shall be

entitled to the withdrawal Benefit under **clause 7.3**.

30/9/91 7.2 **After 10 Years Service**  
30/3/93

Where a Contributor has been a member of this Scheme for not less than 10 years from the date on which the Contributor became a Contributor and on leaving the industry the Contributor makes an election to withdraw the Contributor shall be entitled to receive from this Scheme not later than the expiration of a period of three months from the date on which the election is delivered, in lieu of any other Benefit, a refund of the Contributor's contributions together with earnings thereon at the Applied Earnings Rate, plus for each complete additional year of continuous membership beyond the 10 years ten percent of the Employer Contributions, plus earnings thereon at the Applied Earnings Rate, so that after 20 years of continuous membership the Contributor shall be entitled to the Contributor's Total Credit. Any balance of the Contributor's Total Credit will be transferred to the Reserve Account.

30/9/91 7.3 **On Attaining Age 55**  
30/3/93

A Contributor who has attained age 55 years on leaving the industry and on making an election to withdraw shall be entitled to receive from this Scheme not later than the expiration of a period of three months from the date on which the Election is delivered, in lieu of any other Benefit a refund of the Contributor's Total Credit.

30/9/91 7.4 **On Ill Health or Disablement**  
1/12/98

Notwithstanding the provisions of **clause 7.1, clause 7.1A, clause 7.2 and clause 7.3**, the Board may on such evidence of ill health or disablement that it may require to show that the Contributor is unable to continue in a normal occupation, permit the Contributor to receive a Benefit equal to the Contributor's Benefit Credit.

22/11/91 7.4A **On Redundancy**  
30/3/93  
1/12/98

Notwithstanding **clause 7.1, clause 7.1A, clause 7.2, clause 7.3, and clause 7.4**, a Contributor who is made Redundant by a Contributing Employer may make an election to withdraw, and shall be entitled to receive from this Scheme no later than the expiration of a period of 3 months from the date on which the election is delivered, in lieu of a Benefit, the Contributor's Benefit Credit plus earnings to a date that is not later than the date of payment at a rate determined by the Board irrespective of the length of time that the Contributor has been a member of this Scheme.

30/3/93 7.5 **Contributor**  
20/10/16

For the purposes of this **clause 7**, a Contributor shall become a Contributor on the date on which the Contributor's membership of this Scheme commenced (as determined under **clause 3.1**) or (if earlier) the date the Contributor's membership of any other employer subsidised Superannuation Scheme commenced, where the Contributor has transferred credits from that other scheme to this Scheme.

30/9/91 7.6 **Effect of Election to Withdraw**  
30/3/93

7.6.1 An election to withdraw may be revoked by written notice given to the Board

and received by the Board at any time prior to the payment of the refund.

- 7.6.2 The Contributor who elects to withdraw and receives a refund shall not be eligible to become a member of this Scheme until that person meets the requirements of **clause 3.1.1** commencing from the date of withdrawal (and subject to section 38 of the Act).

30/9/91 7.7 **On Leaving New Zealand**  
30/3/93

Any Contributor who intends to leave New Zealand to reside permanently elsewhere, subject to the Board being satisfied as to the Contributor's intention to leave New Zealand permanently will be entitled to a refund of contributions to this Scheme as follows:

- 7.7.1 Where the Contributor has been a member of this Scheme for less than 5 years a refund of the Contributor's own contributions together with earnings thereon at the Interest Rate allocated under **clause 16.2.1**.
- 7.7.2 Where the Contributor has been a member of this Scheme for 5 years or more the provisions of **clause 7.1A, clause 7.2 and clause 7.3** shall apply as appropriate.

Any difference between the amount refunded and the Contributor's Total Credit will be transferred to the Reserve Account.

30/3/93 7.8 **If No Election Made**

A Contributor who, on leaving the industry, does not make an Election under the preceding provisions of this **clause 7**, may leave that Contributor's Total Credit in this Scheme where it shall continue to attract earnings at the Applied Earnings Rate until the Contributor subsequently makes an Election to withdraw under any of the preceding provisions of this **clause 7** or a Benefit otherwise becomes payable under the terms of this Scheme.

30/3/93 7.9 **If Total Credit Left in the Scheme**

Any Contributor who leaves the Contributor's Total Credit in this Scheme under **clause 7.8** may, on again becoming eligible to become a member of this Scheme under the requirements set out in **clause 3.1.1** commencing from the date of leaving the industry (and subject to section 38 of the Act), recommence contributions and have future contributions subsidised by the Contributor's employer in accordance with **clause 4.5**;

**PROVIDED THAT** the right to withdraw under this **clause 7** shall cease on the Contributor recommencing contributions and, for the avoidance of doubt, that Contributor shall have no right to withdraw under this **clause 7** until again leaving the industry.



30/3/93 7.10 **Leaving the Industry**

For the purposes of this **clause 7**, a person shall be deemed to have left the industry as at 30 September of any year if during the preceding twelve months that person has not been employed for ten continuous weeks' service or for such lesser period as that person's employer may require but not less than four weeks and has not been given leave of absence by an employer.

29/3/11 **7A TOTAL CREDIT NOT TO BE LESS THAN MINIMUM AMOUNT**

7A.1 If the Total Credit of a Contributor is less than the Minimum Amount then, subject to **clause 7A.2** and **clause 7A.3** but otherwise notwithstanding any other provision of this Deed, the Board may pay the Contributor's Benefit Credit to him or her and on receiving such payment the Contributor shall cease to be a Contributor or Member of this Scheme.

7A.2 Before paying the Benefit Credit to the Contributor under **clause 7A.1**, the Board shall give the Contributor not less than six months' written notice of the Minimum Amount and of the Board's intention to make the payment.

7A.3 If the Contributor, by further contribution, increases his or her Total Credit to at least the Minimum Amount within the notice period referred to in **clause 7A.2** (or such longer period as the Board may determine in any one or more cases) then the Board shall not pay the Benefit Credit to the Contributor under **clause 7A.1**.

29/2/96

**PART IV**

29/2/96

**NOMINEES**29/2/96 **8 NOMINEES FOR RETIREMENT OR DEATH BENEFITS**

30/3/93 8.1 Subject to **clause 10** and **clause 12.3**, a Contributor may nominate any person as a  
29/2/96 Nominee for the purposes of **clause 10** and **clause 12.3**;

20/10/16

**PROVIDED THAT**

8.1.1 The Contributor must make the nomination in writing, addressed and delivered or posted to the Board or an authorised representative of the Board;

8.1.2 The nomination shall not have effect for the purposes of **clause 10** or **clause 12.3** until the Board has accepted the nomination and advised the Contributor in writing of that acceptance;

8.1.3 The Board may decline to accept a nomination under this **clause 8.1** if, in the opinion of the Board, acceptance of the nomination would or may jeopardise the Scheme's status under any relevant legislation or for any other regulatory purpose;

8.1.4 The Board shall not accept more than one Nominee in respect of any Contributor at any one time;

8.1.5 The Board may, at any time after a nomination under this **clause 8.1** has been accepted, cancel the nomination by notifying the Contributor in writing where

the Board becomes aware of circumstances that would indicate, in the opinion of the Board, that the nomination would or may jeopardise the Scheme's status under any relevant legislation or for any other regulatory purpose.

29/2/96 8.2 A Contributor may cancel a nomination under **clause 8.1** by notifying the Board in writing, addressed and delivered or posted to the Board or an authorised representative of the Board;

**PROVIDED THAT** a Contributor may not cancel a nomination after the commencement of a Benefit under **clause 10** or **clause 12.3**.

29/2/96 8.3 Once a nomination under **clause 8.1** has been cancelled by a Contributor in accordance with **clause 8.2**, any Benefit payable under **clause 10** or **clause 12.3** shall be paid as if the nomination had never been made.

## PART V

### RETIREMENT BENEFITS

#### 9 OPTIONS ON RETIREMENT

29/2/96  
20/10/16 A Contributor shall be entitled at any time not earlier than three months before attaining the age of 60 years to elect to exercise one of the following options;

**PROVIDED THAT** the latest Retirement Age will be 65 years (or, in the case of a Contributor who joined this Scheme on or after 1 January 1995, 65 years or the age of qualification for national superannuation under section 7 of the New Zealand Superannuation and Retirement Income Act 2001, whichever is the greater) but if any employer wishes to engage or continue to engage an Employee over this age that Employee shall not be entitled to be a Contributor for the purposes of **clause 4**:

30/3/93  
1/12/98 9.1 Subject to the provisions of **clause 10** to receive a Pension commencing from the date of such election or of attaining age 60, whichever is the later, of such annual amount as may be provided by the Benefit Credit in accordance with the provisions of **clause 15.3**.

1/12/98  
1/5/99 9.2 Subject to the provisions of **clause 10** to receive a lump sum payment of all or part of the Benefit Credit and where the Pension would be equal to or more than the Minimum Pension, a Pension of such annual amount as may be provided by the balance of the Benefit Credit in accordance with the provisions of **clause 15.3**.

**10 OPTIONS WHERE PENSION ELECTED**

- 30/3/93  
29/2/96  
1/12/98  
1/5/99
- 10.1 Where a Contributor has elected under **clause 9** to receive a Pension with the Benefit Credit or the balance of the Benefit Credit the Contributor may further elect in lieu of accepting a Pension for the Contributor only:
- 10.1.1 To allocate up to half of the Benefit Credit then available for the provision of a Pension for the Spouse (or, in the case of a Contributor who joined this Scheme on or after 1 April 1980, the Contributor's Nominee) calculated in accordance with the provisions of **clause 15.3**; or
- 10.1.2 Except in the case of a Contributor who joined this Scheme on or after 1 April 1980, to receive a Pension calculated on a basis provided by the Actuary payable to the Contributor (on behalf of the Contributor and the Contributor's Spouse jointly) and upon the death of either the Contributor or the Contributor's Spouse, payable to the survivor of them until that survivor's death;
- 10.1.3 In the case of a Contributor who joined this Scheme on or after 1 April 1980, to receive a Pension calculated on a basis provided by the Actuary payable to the Contributor (on behalf of the Contributor and the Contributor's Nominee jointly) and upon the death of either the Contributor or the Contributor's Nominee, payable to the survivor of them until that survivor's death.
- 22/11/91  
30/3/93  
29/2/96  
1/5/99
- 10.2 No Election shall be made under this **clause 10** if, as a result of that Election, the Pension payable to either the Contributor or the Contributor's Spouse or Nominee would be less than the Minimum Pension.

**PART VI****PERMANENT INCAPACITY BENEFITS****11 PERMANENT INCAPACITY**

Notwithstanding any other provision of this Deed, the Board may on such evidence of ill health or Permanent Incapacity that it may require to show that the Contributor is unlikely to have a significant earning capacity in the future, permit the Contributor to receive a Benefit under Part V before attaining age 60 years.

**PART VII****30/3/93 BENEFITS FOR SURVIVING SPOUSES OR SURVIVING NOMINEES****30/3/93 12 SURVIVING SPOUSES' AND SURVIVING NOMINEES' BENEFITS**

- 30/3/93  
29/2/96  
1/12/98
- 12.1 On a Contributor dying before becoming entitled to receive a Benefit under this Scheme a Surviving Spouse shall be entitled to elect to exercise one of the following options:
- 12.1.1 One of the options set out in **clause 9** in respect of the Contributor's Benefit Credit at the date of the Contributor's death; or

12.1.2 To defer until a later date making an Election to receive a Benefit under this **clause 12**. Subject to section 38 of the Act, if applicable, until such an Election is made the Surviving Spouse shall retain the rights set out in **clause 12.1.1** and have in respect of any future contributions the Surviving Spouse may make as a Contributor of this Scheme rights as may accrue to any Contributor in this Scheme;

**PROVIDED THAT** this **clause 12.1** shall not apply in respect of any Exempted Contributor.

- 30/3/93 12.2 Where more persons than one have claims as Surviving Spouses of any Contributor the total amount payable to them in respect of any Benefit to which one Surviving Spouse would be entitled may be divided by the Board between them in such shares and proportions (including a nil proportion) as it thinks fit, and in any case where they disagree regarding the making of an election the Board shall determine whether or not they are to be deemed to have made the Election and the provisions of this Scheme shall apply accordingly.
- 29/2/96 12.3 On an Exempted Contributor dying before becoming entitled to receive a Benefit under this Scheme a Surviving Nominee shall be entitled to elect to exercise one of the following options:  
1/12/98
- 12.3.1 One of the options set out in **clause 9** in respect of the Exempted Contributor's Benefit Credit at the date of the Exempted Contributor's death; or
- 12.3.2 To defer until a later date making an Election to receive a Benefit under this **clause 12**. Subject to section 38 of the Act, if applicable, until such an Election is made the Surviving Nominee shall retain the rights set out in **clause 12.3.1** and have in respect of any future contributions the Surviving Nominee may make as a Contributor of this Scheme rights as may accrue to any Contributor in this Scheme.
- 1/5/99 12.4 No person shall be entitled to receive a Pension under this **clause 12** if it would be less than the Minimum Pension, and the Benefit will instead be paid as a lump sum.

## PART VIII

### DEATH BENEFITS

#### 30/3/93 13 CONTRIBUTOR WITH NO SURVIVING SPOUSE

30/3/93 Where a Contributor having no Surviving Spouse (or, in the case of an Exempted  
29/2/96 Contributor, no Surviving Nominee) dies before having made an election to receive a  
1/12/98 Benefit the Benefit Credit will be paid to the administrator of the Contributor's estate.

#### 30/3/93 14 MINIMUM PAYMENTS

30/3/93 14.1 Where either the Contributor or the Spouse or the Surviving Spouse (or the Nominee or  
29/2/96 the Surviving Nominee, as appropriate) who has commenced to receive a Pension under this Scheme dies prior to having received such Pension for a period of 5 years, there shall be payable to the estate of that person the then present value as determined by the Board

of the Pension for the unexpired period of such 5 years.

29/2/96 14.2 Where an Election has been made under **clause 10.2** or **clause 10.3** the amount of the Pension that would have been payable had an Election been made under **clause 9.1** hereof and subject to any further Election under **clause 9.2** will be guaranteed for a period of 5 years. Where the Contributor and the Spouse (or the Contributor and the Contributor's Nominee) both die before having received an aggregate Benefit equivalent to this amount, the then present value as determined by the Board of the difference between this amount and the aggregate Benefit paid will be refunded to the estate of the last survivor.

30/3/93 14.3 This **clause 14** is subject to **clause 38**.

## PART IX

### FINANCIAL

#### 30/3/93 15 PAYMENT OF PENSIONS

1/5/99 15.1 Any Pension payable from this Scheme shall be paid by instalments in advance at intervals of 4 weeks or at such intervals as the Board in any case directs.

30/3/93 15.2 Every such instalment shall be payable to the Beneficiary personally or to the Beneficiary's bank account unless the Beneficiary is, by reason of age, infirmity or because of inconvenience, unable to accept the instalment, or the Board for any other reason consents to the instalment being paid to any person or other agent duly authorised by the Board to receive the payment on the Beneficiary's behalf.

30/3/93 15.3 Where a Contributor or other person becomes entitled to a Pension, the Benefit Credit or the relevant proportion of the Benefit Credit (as the case may require), will be converted to a Pension on the basis of pension tables supplied by the Actuary from time to time and taking into account, where appropriate, the provisions of **clause 15A**. Those pension tables may be varied by the Board on the recommendation of the Actuary. Any changes to the pension tables will not affect the Pension entitlement of any existing pensioner. The Board may from time to time, having regard to the earnings credited to the Pension Account and to the advice of the Actuary, resolve to increase Pensions being paid from this Scheme and Pensions shall be increased in accordance with any such resolution.

#### 1/5/99 15A TRANSFER OF PENSIONERS TO PENSION SCHEME

1/5/99 15A.1 Subject to **clause 15A.7**, on any person making an Election and consequently becoming immediately entitled to a Pension under this Scheme on or after such date as the Board may determine, the Board shall transfer that person and the liability to pay the Pension to that person, to the Pension Scheme.

1/5/99 15A.2 Subject to **clauses 15A.7** and **15A.8**, the Board may, on such date as it may determine, transfer all persons already receiving a Pension under this Scheme, and the liability to pay their Pensions, to the Pension Scheme.

1/5/99 15A.3 Any Pension to be transferred under **clause 15A.1** or **15A.2** shall include:

15A.3.1 any Pension or other Benefit payable or contingently payable to any other person as a result of an Election made by a Contributor under **clause 10** or

and

15A.3.2 any minimum payment which would have applied in relation to that Pension under the terms of this Scheme or of which the Board advises the Contributor.

1/5/99 15A.4 On transfer of the liability to pay any Pension under **clause 15A.1**, 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.

1/5/99 15A.5 On transfer of the liability to pay any Pensions under **clause 15A.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) equal to the value of the Pension Account as at the date of transfer of the liability.

1/5/99 15A.6 On transfer of the liability to pay any Pension under **clauses 15A.1** or **15A.2** and assets under **clause 15A.4** or **15A.5** (as the case may be) the Pension 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.

1/5/99 15A.7 The Board must not transfer the liability to pay the Pension of a person from this Scheme to the Pension Scheme unless it is satisfied, after considering the advice of the Actuary, that:

15A.7.1 the terms of that person's Pension under the Pension Scheme are not materially and adversely different from the terms on which that person's Pension would have been paid under this Scheme; and

15A.7.2 the transfer of assets from this Scheme to the Pension Scheme under **clause 15A.4** or **15A.5** is fair and equitable to that person and to all members and beneficiaries of this Scheme materially affected by the transfer.

20/10/16 15A.8 In accordance with section 179 of the FMC Act, any transfer under clause 15A.2 is subject to the prior written consent of either (i) the person who is the subject of the transfer or (ii) the FMA.

## 30/3/93 **16 EARNINGS RATES**

30/3/93 16.1 As soon as practicable after the end of each Financial Year the Board shall declare an earnings rate (which shall not be less than 4% per annum) at which rate earnings shall be added to each Contributor's Total Credit as at the beginning of that Financial Year. The minimum 4% per annum rate is guaranteed by the New Zealand Government.

30/3/93 16.2 The amount added to each Contributor's Total Credit as at the beginning of each Financial Year as a result of the application of the Earnings Rate shall be allocated as:

16.2.1 Earnings at an interest rate declared in respect of that Financial Year by the Board; and

16.2.2 The balance (if any) as a bonus.

22/11/91 16.3 The rate at which earnings shall be allocated to contributions paid into this Scheme each

- 30/3/93 Financial Year shall be one-half of the Interest Rate declared by the Board in respect of that Financial Year.
- 30/3/93 16.4 Where any Contributor withdraws from this Scheme (whether on retirement or otherwise)  
21/7/93 or transfers to another Superannuation Scheme under Part IV, the Board may include in  
20/10/16 any amount paid to the Contributor or transferred, earnings on the amount withdrawn or  
transferred to a date that is not later than the date of payment or transfer at a rate  
determined by the Board.
- 30/3/93 16.5 Where a Contributor elects to commence a Pension under Part V from a date after the last  
preceding 1 April the Total Credit at the preceding 31 March will attract earnings at the last  
declared Interest Rate which will be allocated pro rata for the number of complete calendar  
months from the preceding 1 April to the date the Pension commences. In addition, in the  
event that the Earnings Rate for the immediately preceding Financial Year has not been  
declared on the date the Pension commences, earnings will be added to the Total Credit as  
at the beginning of that preceding Financial Year at the last declared Earnings Rate, and  
earnings shall be allocated to contributions paid in during that preceding Financial Year at  
one-half of the last declared Interest Rate.
- 30/3/93 16.6 Where a Contributor's credit from another scheme is transferred to this Scheme, the  
21/7/93 amount of the transfer will attract earnings at the last declared Interest Rate which will be  
allocated pro rata for the number of complete calendar months from the date of transfer to  
the end of the Financial Year or such earlier date on which a Benefit becomes payable  
under Part III, Part IV, Part V, Part VI, Part VII or Part VIII of this Scheme (or, where an  
Election to transfer is accepted under Part XIA, the Transfer Date (as defined in Part XIA)).
- 30/3/93 16.7 For the purposes of this **clause 16**, in the event that the Board last declared an Earnings  
Rate but did not allocate the earnings between an "Interest Rate" and a "Bonus", a  
reference to the "last declared Interest Rate" shall be deemed to be a reference to the last  
declared Earnings Rate.

## 17 STATEMENT OF CONTRIBUTOR'S ACCOUNT

- 30/3/93 A certificate will be issued and posted to the last known address of the Contributor as soon  
as practicable after the end of each Financial Year, showing the Contributor's Total Credit as  
at the end of that Financial Year, provided that each Contributor shall have the right to be  
advised, as soon as practicable after request, the amount of the Contributor's cash  
withdrawal entitlement under **clause 7** of this Scheme as at the preceding 31 March and  
provided further that if the Board is satisfied that the Contributor does not live at the last  
known address and the Board has no other address for the Contributor, the certificate may  
be retained by the Board.

## 30/3/93 18 RESERVE ACCOUNT

- 30/3/93 18.1 A Reserve Account shall be established for this Scheme.
- 30/3/93 18.2 The Reserve Account shall be credited with:  
21/7/93
- 18.2.1 The investment earnings of this Scheme (net of tax and expenses except to the  
extent that such tax or expenses are paid out of the Reserve Account) or debited,  
in the case of negative earnings;

- 18.2.2 The balance of any Contributor's Total Credit not transferred or otherwise disbursed in accordance with the provisions of this Scheme;
- 18.2.2A The balance of any Transfer Value not transferred or otherwise disbursed in accordance with the provisions of this Scheme;
- 18.2.3 All other credits to this Scheme other than amounts referred to in **clause 4**; and
- 18.2.4 Any debits to the Pension Account made under **clause 19A.6**,

and all other moneys of this Scheme other than moneys held in the Pension Account or forming part of Contributors' Total Credits shall be held in the Reserve Account.

- 30/3/93 18.3 The Reserve Account shall be debited with:
  - 21/7/93 18.3.1 Earnings applied, allocated or paid under **clause 16**;
  - 1/12/98 18.3.1A Earnings credited to Transfer Values under **clause 27B.3** and **clause 27B.4**;
  - 18.3.1B Amounts included in Transfer Values under **clause 19AA.1.2**;
  - 18.3.1C Amounts added to Contributors' Total Credits under **clause 19AA.1.1**;
  - 18.3.2 Earnings credited to the Pension Account under **clause 19A.4.1** (or, in the case of a negative earnings rate, the Reserve Account shall be credited with earnings debited under that clause);
  - 18.3.3 Tax and management expenses not already deducted from investment earnings; and
  - 18.3.4 Such amounts as the Board from time to time determines, after receiving advice from the Actuary, shall be paid into the Pension Account (which amounts shall be credited to the Pension Account under **clause 19A.4.2**).

## 30/3/93 19 USE OF RESERVE ACCOUNT

- 30/3/93 19.1 The Board, after receiving advice from the Actuary and with the agreement of the Relevant Employers Organisation and the Unions, may use the balance in the Reserve Account from time to time to do any or all of the following:
  - 19.1.1 Meet all or part of the contributions of all Contributors to this Scheme on an equitable basis;
  - 19.1.2 Meet all or part of the contributions of all Contributing Employers on an equitable basis;
  - 19.1.3 Increase the Pensions of all pensioners on an equitable basis;
  - 19.1.4 Increase all Contributors' Total Credits on an equitable basis;
  - 19.1.5 Provide Benefits other than retirement Benefits for all Contributors on an



equitable basis;

19.1.6 Pay any expenses of this Scheme.

30/3/93 **19A PENSION ACCOUNT**

30/3/93 19A.1 At any time any Pension is payable from this Scheme, an account to be known as the  
1/5/99 Pension Account shall be maintained within this Scheme.

30/3/93 19A.2 Subject to **clause 15A** whenever an Election is made under this Scheme to receive a  
1/12/98 Pension, the Benefit Credit (less any part taken as a lump sum) of the relevant Contributor  
1/5/99 (or the relevant proportion of that Benefit Credit) to be applied to provide for that Pension  
shall be credited to the Pension Account.

30/3/93 19A.3 Any Reserve Account distributions made under **clause 19.1.3** and any other Reserve  
Account distributions to be paid in the form of a Pension shall be credited to the Pension  
Account.

30/3/93 19A.4 The Pension Account shall also be credited with:

19A.4.1 Earnings as soon as practicable after the end of each Financial Year, at such rate  
as the Board considers appropriate, having regard to the net investment earnings  
rate of this Scheme and to the advice of the Actuary (or, in the event that the  
rate considered by the Board to be appropriate is negative, the Pension Account  
shall be debited with earnings at that rate); and

19A.4.2 All amounts debited to the Reserve Account under **clause 18.3.4**.

30/3/93 19A.5 All Pensions payable from this Scheme shall be paid out of the Pension Account.  
1/5/99

30/3/93 19A.6 The Board in its discretion and after receiving the advice of the Actuary may from time to  
time debit amounts to the Pension Account and credit such amounts to the Reserve  
Account.

1/5/99 **19B MINIMUM PENSIONS**

1/5/99 19B.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.

1/5/99 19B.2 The Board may from time to time offer to a person who began receiving a Pension from  
this Scheme before 1 May 1999, 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.

1/5/99 19B.3 Where any person receives a payment under **clause 19B.2**, he or she will cease to be a  
Member, Contributor or Beneficiary from the date of the payment.

1/12/98 **19AA SHARE OF RESERVES**

1/12/98 19AA.1 A Contributor's "Benefit Credit" shall be:

29/3/11 19AA.1.1 for the purposes of the determination of a Benefit payable under any of **clauses 7.4, 7.4A, 7A, 9, 10, 11, 12 and 13** the Contributor's Total Credit plus a share (as determined under **clause 19AA.2.1**) of any positive reserves of the Scheme; or

19AA.1.2 for the purpose of the calculation of a Transfer Value under **clause 27B.2**, the Contributor's Total Credit as at the Transfer Date (which Total Credit, for the purposes of Part XIA, represents the share of the Property of this Scheme (including, for the avoidance of doubt, that representing contributions received or due from corporate contributors (as defined in the Act)) that is attributable to the Frozen Member as at that date) plus or minus (as the case may be) a share (as determined under **clause 19AA.2.2**) of any positive or negative reserves of the Scheme.

1/12/98 19AA.2 The share of any:

19AA.2.1 reserves to be added to a Contributor's Total Credit under **clause 19AA.1.1** shall be an equitable share (as determined by the Board) of any positive reserves (as defined in **clause 19AA.3.1**) of this Scheme as at the date of determination of that Total Credit; or

19AA.2.2 reserves to be added to or deducted from a Contributor's Total Credit under **clause 19AA.1.2** shall be an equitable share (as determined by the Board) of any reserves (as defined in **clause 19AA.3.2**) of this Scheme as at the Transfer Date, and in the event that this Scheme has negative reserves as at that date, the Contributor's Total Credit shall be reduced by an equitable share of those negative reserves.

1/12/98 19AA.3 The term "reserves" means:

19AA.3.1 for the purposes of **clauses 19AA.1.1 and 19AA.2.1**, amounts that are shown in the accounts of the Scheme as being reserves attributable to this Scheme whether or not forming part of the Reserve Account, but does not include negative reserves; or

19AA.3.2 for the purposes of **clauses 19AA.1.2 and 19AA.2.2**, amounts that are shown in the accounts of the Scheme as being reserves attributable to this Scheme whether or not forming part of the Reserve Account, and includes negative reserves.

1/12/98 19AA.4 Notwithstanding **clause 19AA.2**, the amount to be added to the Contributors' Total Credit under **clause 19AA.1** for a Contributor who became a Member of this Scheme on or after 1 April 1993 (including persons who rejoined the Scheme on or after that date) shall not include any amount credited to the Reserve Account before 1 April 1993 unless the Board determines otherwise.

1/12/98 19AA.5 In determining (under clause 19AA.2) the equitable share of reserves to be added to the Contributor's Total Credit under **clause 19AA.1**, the Board shall have regard to the level of reserves required for the prudent management of the Scheme, having regard to the Board's obligation to declare an Earnings Rate of not less than 4% per annum under **clause 16.1**. In the event that the level of reserves is lower than such level, the share of reserves which would otherwise be added to the Total Credit of a Contributor under **clause 19AA.1** may be reduced to reflect that fact.

20/10/16 **20 REDUCTIONS UNDER PART III OF THE SUPERANNUATION SCHEMES ACT 1989 (AS IT WAS PRIOR TO ITS REPEAL)**

Notwithstanding any other provision of this Scheme every Pension payable on 31 March 1990, the first instalment of which first became payable after 31 March 1980 shall be reduced with effect from the first payment date after 31 March 1990 as follows:

20.1 In the case of persons receiving such Pension where the appropriate tax code as at 31 March 1990 is code T:

<b>On such of the Pension as</b>	<b>Reduction</b>
Does not exceed \$4,853	Zero
Exceeds \$4,853 but does not exceed \$6,240	15%
Exceeds \$6,240 but does not exceed \$9,880	35%

20.2 In the case of persons receiving such Pensions where the appropriate tax code as at 31 March 1990 is not code T: 15%

## **PART X**

### **TRUSTEE PROVISIONS**

#### **21 TRUSTEES - APPOINTMENT AND REMOVAL**

22/11/91 21.1 The Board is the trustee of this Scheme pursuant to section 20(1)(a) of the Act and  
20/10/16 the 'manager' of the Scheme for the purposes of the FMC Act.

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

21.3 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.

#### **22 POWERS OF BOARD**

20/10/16 22.1 The Board may give guarantees, undertakings, and (subject to section 135(1)(f) of the FMC Act) indemnities and incur all such obligations relating to this Scheme as the Board in its discretion thinks fit.

30/3/93 22.2 The Board may borrow money for the purposes of:

22.2.1 Making any investment; or

- 22.2.2 Paying any Benefit; or
- 22.2.3 Meeting any liability (as defined in the Act); or
- 22.2.4 The management (as defined in the Act) of this Scheme.

22.3 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.

20/10/16 22.4 The Board in its capacity as manager shall have the functions and duties and have the responsibilities accorded to it as a manager under the FMC Act. In particular the Board is responsible for the following functions:

- 22.4.1 Offering the interests in the Scheme;
- 22.4.2 Issuing the interests in the Scheme;
- 22.4.3 Managing the Scheme's Property and investments; and
- 22.4.4 Administering the Scheme.

## 23 POWER OF AMENDMENT

30/3/93 [Reserved]  
20/10/16

22/11/91 23.1 With the agreement of, or on the recommendation of the Relevant Employers Organisation,  
30/3/93 the Board may amend this Trust Deed from time to time;

### PROVIDED THAT

- 23.1.1 no amendment shall have any effect unless the provisions of section 139 of the FMC Act are complied with;
- 23.1.2 no such amendment shall be implemented without first discussing it with the Unions and without the consent of every Member whose interest in this Scheme at the date of amendment could be reduced or adversely affected by the proposed amendment; and
- 23.1.3 where such amendments could reduce or adversely affect a Member's future interest in this Scheme the Member may be permitted to discontinue making contributions and either transfer the Member's Transfer Credit to another Registered Superannuation Scheme or leave the Member's Total Credit in this Scheme until a Benefit becomes payable.

23.3 [Reserved]

## 24 AMENDMENTS IN RESPECT OF FUTURE TAX CHANGES

30/3/93 Notwithstanding the other provisions of this Deed the Board may at any future time vary  
20/10/16 any benefit under this Scheme to take account of changes in taxation that may arise (other

than as a result of the passing of the Income Tax Amendment Act 1989);

**PROVIDED THAT** no reductions in benefits under this **clause 24** shall be made until:

- 30/3/93  
20/10/16
- 24.1 The FMA has been provided with a copy of an opinion of an actuary who is a Fellow of the New Zealand Society of Actuaries confirming that the reductions are no more than are necessary to make the benefits of this Scheme secure and the FMA has confirmed in writing to the Board that it agrees with that opinion; and
- 30/3/93  
20/10/16
- 24.2 The FMA has confirmed in writing to the Board that it is satisfied that the reductions in benefits are equitable as between all Members and other Beneficiaries.

## 25 LIMITATION OF LIABILITY

- 25.1 No member of the Board shall be liable to the Board or any other person, nor shall the Board be liable, for any losses:
- 25.1.1 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
- 25.1.2 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
- 25.1.3 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.
- 30/3/93
- 25.2 Without limiting **clause 25.1** of this Deed, 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 actions of any employee of the Board.
- 30/3/93
- 25.3 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 25** shall be limited to the assets of this Scheme.
- 25.4 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.
- 20/10/16
- 25.5 The Board and the members of the Board may be indemnified for the liabilities or expenses incurred in relation to the performance of the Board's obligations as manager of the Scheme **PROVIDED THAT** such rights must only be available in relation to the proper performance of duties under sections 143(1) and 144 of the FMC Act.

## PART XI

### INVESTMENT PROVISIONS

#### 26 INVESTMENT

- 30/3/93 26.1 The Property of this Scheme may only be invested in the global asset trust (as defined in  
20/10/16 the Act), whether by way of debt securities (as defined in the Act) or managed investment products (as defined in the Act), or otherwise.
- 30/3/93 26.2 Nothing in **clause 26.1** 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.
- 30/3/93 26.3 None of the provisions of the Trustee Act 1956 relating to the investment of trust  
20/10/16 funds shall apply in respect of this Deed or the investment of the Property of this Scheme.

#### 27 APPOINTMENT OF ADMINISTRATION AND/OR INVESTMENT MANAGERS

- 30/3/93 27.1 The Board may, subject to the provisions of the FMC Act, on such terms and conditions  
20/10/16 as it thinks fit, appoint any person (including the Crown) to manage all or any part of:
- 27.1.1 The administration of this Scheme; or
- 27.1.2 The investment of the trust fund (as defined in the Act) of this Scheme; or
- 27.1.3 Both.
- 30/3/93 27.2 All fees and expenses payable to any such manager or managers shall be paid out of  
the trust fund of this Scheme.
- 8/4/98 27.3 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.
- 20/10/16 27.4 In appointing any person under **clause 27.1**, the Board shall take all reasonable steps to:
- 27.4.1 Ensure these functions are performed in the same manner and are subject to the same duties and restrictions, as if the Board were performing them directly; and
- 27.4.2 Monitor the performance of those functions.
- 20/10/16 27.5 Any right of indemnification given to an investment manager appointed under clause 27.1  
shall only be related to the proper performance of the appointee's duties in accordance with section 136(2) of the FMC Act.

21/7/93

**PART XII****DISCRETIONARY TRANSFERS**21/7/93 **27A ELECTIONS TO TRANSFER**

21/7/93 27A.1 Any Member of this Scheme, other than a Beneficiary in receipt of a Pension from this  
20/10/16 Scheme, may:

27A.1.1 Elect to transfer to another Superannuation Scheme; and

27A.1.2 having made an Election to transfer and subject to this Part XIA, transfer to another Superannuation Scheme.

21/7/93 27A.2 Any Member who Elects to transfer under this **clause 27A** shall complete an "election to transfer notice" in the form prescribed by the Board.

8/4/98 27A.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.

21/7/93 27A.3 The Board is not obliged to accept a Member's Election to transfer under this **clause 27A**  
16/3/00 unless it is satisfied that the Superannuation Scheme to which the Member has Elected to  
20/10/16 transfer (referred to below as the "other scheme") is:

27A.3.1 able and has agreed to accept:

27A.3.1.1 the Member as a transferring member; and

27A.3.1.2 the terms on which the Member's Transfer Value will be payable; and

27A.3.2 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.

21/7/93 27A.4 **[Reserved]**  
8/4/98

21/7/93 **27B CONSEQUENCE OF TRANSFER**

21/7/93 27B.1 Once an Election to transfer under **clause 27A** has been accepted by the Board, the  
Transfer Value for the Frozen Member shall be calculated by the Board.

21/7/93 27B.2 The Transfer Value for a Frozen Member shall be calculated as at a date determined by the  
8/4/98 Board (such date being referred to in this Part XIA as the "Transfer Date") being a date not  
1/12/98 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 shall be the Frozen Member's Benefit Credit.

- 21/7/93  
1/12/98  
16/3/00
- 27B.3 Transfer Values shall remain in the Scheme until payable under clause 27C, and if the Board so determines as soon as practicable after the end of each Financial Year Transfer Values shall be credited with earnings (less withholdings, if any, required to be made by law) at the latest Transfer Value Earnings Rate (as defined in **clause 27B.7**) (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).
- 21/7/93  
1/12/98  
16/3/00
- 27B.4 Where a Transfer Value is payable in accordance with **clause 27C**, the Transfer Value shall be credited 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 under **clause 27B.3** to the date of payment at the latest Transfer Value Earnings Rate (as defined in **clause 27B.7**) which rate shall be applied on such proportionate basis as the Board shall determine.
- 21/7/93  
1/12/98
- 27B.5 Notwithstanding any other clause of this Deed, no distributions from the Reserve Account under **clause 19** shall be credited to Transfer Values.
- 21/7/93  
1/12/98  
16/3/00
- 27B.6 No contributions to this Scheme shall be payable by or on behalf of a Frozen Member and a Frozen Member shall not be a Contributor for the purposes of this Scheme. A Frozen Member shall however remain a Member until the Transfer Value has been paid under **clause 27C** provided that a Frozen Member shall not be a Member for the purposes of **clause 39.2**. Nothing in this **clause 27B.6** shall prejudice the Frozen Member's ability (if any) to rejoin this Scheme, and **clause 30** shall continue to apply to the Frozen Member as if the Frozen Member were a Member.
- 21/7/93  
1/12/98  
16/3/00
- 27B.7 For the purposes of **clause 27B.3** and **clause 27B.4**, "Transfer Value Earnings Rate" means an annual earnings rate (which shall not be a negative rate but may be zero) which may be declared by the Board from time to time for the purposes of this **clause 27B**, after receiving the advice of the Actuary.
- 21/7/93
- 27C WHEN TRANSFER VALUES PAYABLE**
- 21/7/93  
16/3/00  
20/10/16
- 27C.1 Subject to **clause 27C.4**, the Transfer Value for a Frozen Member shall become payable in one lump sum to the Superannuation Scheme to which the Frozen Member has transferred ("the elected scheme") (or to another Superannuation Scheme nominated by the Frozen Member and approved by the Board (or, if applicable, the Administration Manager) in the event that the elected scheme for any reason is unable to receive such payment), on the earlier of:
- 27C.1.1 such date as may be agreed between the Board (or, if applicable, the Administration Manager) and the trustees of the Superannuation Scheme to which the Transfer Value is payable; or
- 27C.1.2 the date of the winding up of this Scheme.
- 21/7/93  
16/3/00
- 27C.2 **[Reserved]**
- 21/7/93  
16/3/00
- 27C.3 **[Reserved]**
- 20/10/16
- 27C.4 The Board shall not be required to pay out any Transfer Value under **clause 27C.1**, until such time as it has been able to convert the Property of this Scheme which represents that Transfer Value to cash (or, where the Transfer Value is payable to the trustees of a 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 27C.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.

- 21/7/93 27C.5 **[Reserved]**  
16/3/00
- 21/7/93 **27D OTHER PROVISIONS RELATING TO TRANSFERS OUT**
- 21/7/93 27D.1 Subject to **clause 27B.6**, nothing in this Part XIA shall limit any right contained in any  
1/12/98 other Part of this Deed for any Contributor to transfer to any other Superannuation  
20/10/16 Scheme.
- 21/7/93 27D.2 Nothing in this Part XIA shall confer upon any person any right to require the Board to  
20/10/16 provide for transfers from this Scheme to any other Superannuation Scheme.
- 21/7/93 27D.3 The Board shall be under no obligation or liability to see to the application of any amount  
20/10/16 paid (or Property transferred) to the trustees of any Superannuation Scheme or any other  
person under this Part XIA.
- 21/7/93 **27E TRANSFERS IN**
- 21/7/93 27E.1 Subject to **clause 3** and to the provisions of this **clause 27E**, the Board (or, if the Board  
8/4/98 shall so agree in writing and subject to such terms and conditions as the Board shall  
20/10/16 determine, the Administration Manager) may accept as a Contributor to this Scheme, a  
person who has become a transferred member of another existing scheme (as defined in  
the Act) under provisions in that existing scheme which provide for the transfer of  
members (as defined in the Act) of that scheme to other Superannuation Schemes on  
terms which are the same as or similar to the terms set out in this Part XIA.
- 8/4/98 27E.1A Any person who wishes to become a Contributor to this Scheme in accordance with this  
**clause 27E** shall complete an application form in such form as is prescribed by the Board.
- 8/4/98 27E.1B The Board, (or, if applicable, the Administration Manager) shall consider and decide  
whether to accept the application.
- 29/3/11 27E.1C A person may not be accepted as a Contributor to this Scheme under **clause 27E.1** if the  
transfer value that would be paid to the Scheme in respect of that person is less than the  
Minimum Amount.
- 21/7/93 27E.2 Notwithstanding any other clause of this Deed, no distribution out of the Reserve Account  
under **clause 19**, to the extent that such distribution is made out of moneys credited to  
the Reserve Account before 1 April 1993, shall be credited to the Total Credit of, or  
otherwise used for the benefit of or paid to, any Contributor to whom **clause 27E.1**  
applies, unless the Board determines otherwise.
- 21/7/93 27E.3 The transfer value paid to this Scheme from an existing scheme (as defined in the Act) in  
respect of a Contributor to whom **clause 27E.1** applies shall, for the purpose of  
determining any Benefit payable to that Contributor under this Scheme, be treated as that

Contributor's own contributions.

- 21/7/93 27E.4 Notwithstanding **clause 7.5**, in relation to any Contributor to whom **clause 27E.1** applies, any period of time as a contributor to the other existing scheme shall not be counted as time as a Contributor to this Scheme for the purposes of **clause 7**.

## PART XIII

### MISCELLANEOUS

#### 28 ELECTIONS IRREVOCABLE

- 30/3/93  
8/4/98 As soon as an election under any part of this Scheme has been made it shall be irrevocable unless, in any case where a Benefit has not commenced to be paid, the Board in its discretion determines otherwise. An election shall be deemed to be made as soon as it has been received by the Board or Administration Manager or an authorised representative of the Board or Administration Manager.

- 30/3/93  
21/7/93 **29 [RESERVED]**

#### 21/7/93 **29A PERSONS WHO BECOME CONTRIBUTORS ON OR AFTER 1 APRIL 1993**

- 21/7/93 29A.1 Subject to **clause 29A.3** but otherwise notwithstanding any other provision of this Deed, no distribution out of the Reserve Account under **clause 19**, to the extent that such distribution is made out of the moneys credited to the Reserve Account before 1 April 1993, shall be credited to the Total Credit of, or otherwise used for the benefit of or paid to, a Contributor who became a Contributor on or after 1 April 1993, unless the Board determines otherwise.
- 21/7/93 29A.2 A Contributor who became a Contributor on or after 1 April 1993 (whether by virtue of transferring into this Scheme under **clause 27E.1** or otherwise) shall not be entitled to any share of the moneys credited to the Reserve Account before 1 April 1993 on a winding up of the Scheme unless the Board determines otherwise.
- 21/7/93 29A.3 **Clause 29A.1** and **clause 29A.2** shall not apply to any person who rejoins this Scheme on or after 1 April 1993, being a person who was a contributor to this Scheme (in terms of section 38 of the Act and excluding pensioners) on 31 March 1991 unless that person has previously transferred out of this Scheme under Part XIA in which case the Board may apply those clauses to that person.

#### 30 PROHIBITION OF ASSIGNMENT, BORROWING AND PAYMENT OF DEBTS

- 30/3/93 30.1 No money payable from this Scheme to any person shall be in any way assigned, charged, alienated or passed by operation of law to any other person.
- 30/3/93 30.2 No Member shall borrow against the security of any Benefits payable from this Scheme.
- 30.3 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.

22/11/91 **31 BANKRUPTCY**

22/11/91 All the interests in this Scheme of any person then or contingently entitled to any benefit 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 his or her dependants in such manner as the Board considers appropriate having regard to the objects of this Scheme.

**32 INABILITY TO MANAGE AFFAIRS**

The Board may, in the event of the inability of a Contributor or other Beneficiary to manage that person's own affairs, administer any Benefits on that person's behalf.

**33 PAYMENTS IN RESPECT OF MINORS**

33.1 Where any Benefit is payable 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 applied on behalf of the minor.

33.2 Any receipt given by a minor or other person for money paid under **clause 33.1** shall be a good discharge to the Board.

29/2/96 33.3 In relation to any Benefit payable to any Exempted Contributor or as a result of the membership of this Scheme of any Exempted Contributor, the term "minor" in this **clause 33** shall mean a person under the age of 16 years.

**34 UNCLAIMED MONEY PAYABLE OUT OF SCHEME**

30/3/93 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.

5/4/01 **34A MISSING PERSONS**

5/4/01 34A.1 In this **clause 34A** –

"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 34A.2 The Board may deduct from any Benefit, entitlement or earnings credited to a Missing Person 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

34A.2.1 the right of any Contributor to receive, under **clause 16** a minimum Earnings Rate is subject to the Board's power to deduct an amount under this **clause 34A.2**; and

34A.2.2 this **clause 34A.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 34A.3 The Board may allocate to any Missing Persons:
- 34A.3.1 property of this Scheme equivalent to the Missing Persons' share in this Scheme; and
  - 34A.3.2 future investment returns from that property received after the date of that allocation.
- 5/4/01 34A.4 The Board may transfer Missing Persons, the liabilities of the Scheme to those Missing Persons and any property allocated to them under **clause 34A.3**, to any other Existing Scheme without the consent of Members or Beneficiaries or any other person.
- 5/4/01 34A.5 For the purposes of **clause 34A.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 –
- 34A.5.1 **plus**, if this Scheme has positive reserves, an equitable share of the reserves, as determined by the Board after receiving advice from the Actuary; or
  - 34A.5.2 **less**, if this Scheme has negative reserves, an equitable share of the reserves, as determined by the Board after receiving advice from the Actuary.
- 5/4/01 34A.6 The Board may receive transfers of persons who are missing persons under the provisions of an Existing Scheme which are equivalent to **clause 34A.1**, the liabilities of that Existing Scheme to those missing persons, and any property allocated to them under the provisions of that Existing Scheme which are equivalent to **clause 34A.3** without the consent of Members or Beneficiaries or any other person. On receipt of such a transfer the Board shall treat any person so transferred as a Missing Person for the purposes of this **clause 34A** and the property received in respect of them as property allocated for the purposes of **clause 34A.3**.
- 5/4/01 34A.7 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 34A**) **PROVIDED THAT**:
- 34A.7.1 no liability may be extinguished under this **clause 34A.7** unless the Board has used reasonable endeavours to find the current address of that Missing Person; and
  - 34A.7.2 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.

### 35 IMPLIED TERMS OR CONDITIONS

- 30/3/93 Every term or condition of this Scheme that was provided in the National Provident Fund Act 1950 and is not expressly provided in this Scheme shall be incorporated in this Scheme

as a term or condition of this Scheme.

30/3/93 **36 ACTUARY**

30/3/93  
20/10/16 The Board shall appoint an Actuary for this Scheme and shall ensure that the financial position of this Scheme is examined by the Actuary so appointed as required by the FMC Act and the Act and that the requirements of those Acts in relation to actuarial examinations are complied with.

**37 REPORTS**

20/10/16 37.1 Every Member of this Scheme shall have the right to receive 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 as provided for in the FMC Act.

20/10/16 37.2 The Board shall comply with the reporting requirements of the FMC Act.

30/3/93 37.3 In addition to the rights provided under **clause 37.1** and **clause 37.2** every Member shall have the right to peruse a copy of this Deed during normal business hours at the office of the Member's employer or at any office of the Board.

**38 MINIMUM VALUE OF BENEFITS**

30/3/93 The value of any Benefit payable to or in respect of a Member on the Member's ceasing to be a Member for any reason shall not be less than the Member's own contributions to this Scheme, together with any contributions the Member has made to any previous scheme from which the Member's benefits may be transferred.

30/3/93

**PART XIV**

**WINDING UP**

**39 WINDING UP**

39.1 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.

22/11/91  
30/3/93  
21/7/93 39.2 Upon a winding up of this Scheme the assets of this Scheme shall be realised and the proceeds thereof (less the reasonable costs of the winding up) allocated (subject to **clause 29A.2**) pro rata between the remaining Members, and Members and other Beneficiaries then in receipt of a Pension, on an equitable basis.

30/3/93  
20/10/16 39.3 On the winding up of this Scheme, no part of the assets of this Scheme will revert to:

39.3.1 any person other than as provided for in **clause 39.2** without the written consent of the FMA; or

39.3.2 any employer who has contributed to this Scheme.

- 20/10/16 39.4 The Board shall advise the FMA of its intention to wind up the Scheme by providing a copy of its resolution to do so within 10 working days in accordance with section 212 of the Act.
- 20/10/16 39.5 **[Reserved]**
- 20/10/16 **40 REGISTER**
- 40.1 A register of Members and Beneficiaries must be kept by the Board in a form and manner required by the FMC Act.
- 40.2 Such register may be in electronic form and compiled by a delegate of the Board in a manner approved by the Board.
- 40.3 The following details shall be entered on the register:
- 40.3.1 The names and addresses of each Member or Beneficiary;
- 40.3.2 The date on which the Member or Beneficiary became a Member or Beneficiary of the Scheme;
- 40.3.3 Such other information as the Board requires or as is required by the Act or the FMC Act.
- 40.4 The Board must ensure that the register is audited at intervals of not more than 12 months or as required by and in accordance with the provisions of the FMC Act.
- 40.5 The Board must advise the Registrar of the place where its registers are kept and of any change in that place. Changes must be advised to the Registrar within 10 working days of the change in place.
- 20/10/16 **41 ACCOUNTING RECORDS**
- 41.1 The Board shall ensure that there are kept at all times accounting records that comply with the requirements of section 455 of the FMC Act.
- 20/10/16 41.2 In keeping or causing to be kept the accounting records under **clause 41.1** the provisions of Part 7 of the FMC Act must be complied with.
- 42 FINANCIAL STATEMENTS**
- 20/10/16 42.1 Subject to any law relevant to the Board or the Scheme (including the FMC Act), the Board must ensure that financial statements are prepared that comply and are in accordance with the requirements of Part 7 of the FMC Act.
- 43 AUDIT**
- 43.1 The Board shall ensure that:
- 43.1.1 the Scheme's financial statements are audited and reported on by the Auditor in accordance with the requirements of the FMC Act; and
- 20/10/16 43.1.2 those financial statements, together with the Auditor's report on those

financial statements, are delivered and lodged in accordance with any requirements of the FMC Act.

#### **44 THE AUDITOR**

20/10/16

- 44.1 A person or firm selected by the Board must be appointed Auditor of the Scheme. Such person or firm must be a Qualified Auditor (as defined in the FMC Act) and meet the requirements of any law relevant to the Board or the Scheme.

#### **45 INTENTION TO BE LEGALLY BINDING**

It is intended that this deed be legally enforceable as between the Board, the Members and the Beneficiaries.

30/3/93

**ANNEX****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.