



## **RETIREMENT BENEFITS FUND**

### **TASMANIAN AMBULANCE SERVICE SUPERANNUATION SCHEME**

#### **TRUST DEED (CONSOLIDATED VERSION)**

**This Consolidated Version of the Trust Deed incorporates the following:**

**the original Trust Deed effective from 30 June 2006; and  
the Amendment Deed (No. 1) 2007 effective from 1 July 2007.**

## INITIAL TRUST DEED RECITALS

DATE: 28 June 2006

### PARTIES:

The Hon Michael Anthony Aird MLC, Treasurer ("Minister"), being and as the Minister administering the *Retirement Benefits (Tasmanian Ambulance Service Superannuation Scheme) Act 2006* ("Act")

and

The Retirement Benefits Fund Board, constituted as a corporate trustee under the *Retirement Benefits Act 1993* ("the Board")

### RECITALS

- A By regulations ("the regulations") made under the *Ambulance Act 1959*, there was established on 1 July 1974 a superannuation fund now known as the Tasmanian Ambulance Service Superannuation Scheme ("the Scheme").
- B The provisions of the regulations have been replaced by trust provisions which in turn have been amended from time to time (including most recently by deed of amendment dated 21 June 2006).
- C Section 4 of the Act requires the Board to prepare a draft trust deed for the Scheme to continue the Defined Benefit Component of the Former Scheme for certain members thereof, and submit that draft trust deed to the Minister for approval, which the Board has done.
- D In preparing the draft trust deed, the Board and the Former Trustee have agreed that the requirements of the SIS Act relating to successor funds will be met on the commencement of this Deed.
- E In approving the draft trust deed, the Minister has consulted with the Ambulance Service and the Health Services Union of Australia – Tasmanian No. 1 Branch and is satisfied that it complies with the Act and the SIS Act, and is consistent with the requirements of the SIS Act relating to successor funds, as required by section 4 of the Act.
- F From 30 June 2006, as required by section 4 of the Act, the benefits and obligations of Former Scheme members in respect of the Defined Benefit Component will be continued by this Deed and will no longer be governed by the Former Trust Deed.

THIS DEED WITNESSES that on and from 30 June 2006, the governing rules of the Scheme are established in this trust deed.

## AMENDMENT DEED (NO. 1) 2007 RECITALS

THIS DEED is made on the 27<sup>th</sup> day of June 2007, by the Retirement Benefits Fund Board (“the Board”), constituted as a corporate trustee under the *Retirement Benefits Act 1993*.

### RECITALS

- A On 28 June 2006, a Trust Deed (“the Trust Deed”) was made by the Board and the Honourable Michael Anthony Aird MLC, Treasurer, being and as the Minister administering the *Retirement Benefits (Tasmanian Ambulance Service Superannuation Scheme) Act 2006* (“the Act”).
- B The Trust Deed took effect from 30 June 2006 and prescribes the governing rules of the Tasmanian Ambulance Service Superannuation Scheme (“the Scheme”).
- C The Trust Deed was created in accordance with section 4 of the Act.
- D Section 6 of the Act and clause 11 of the Trust Deed provide that the Trust Deed may be amended and prescribe that the processes to be followed in respect of any such amendment are those in section 6 of the Act and clause 11 of the Trust Deed.
- E In accordance with section 6 of the Act, the Board is to prepare a draft amending deed and submit that Deed to the Treasurer, being the Minister currently responsible under the Act, for the approval of the Deed.
- F The Board prepared a draft of this Deed and submitted it to the Treasurer.
- G In accordance with section 6 of the Act, the Treasurer in approving this Deed, is satisfied that the Ambulance Service and the Health Services Union of Australia – Tasmanian No. 1 Branch have been consulted in respect of the draft and the draft complies with, and is consistent with, the Act and the *Superannuation Industry (Supervision) Act 1993*.

THIS DEED WITNESSES that on and from the day upon which notice is published in the Gazette of the Treasurer’s approval of the amendments to the Trust Deed contained in this Deed and of the execution of this Deed by the Board and Treasurer and the Trust Deed is amended as follows:

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# 1 PRELIMINARY

## 1.1 CONSTITUTION OF THE SCHEME

- 1.1.1 This **Deed** has effect from the **Transfer Day** and it is directed by the **Minister** and declared by the parties that the **Board** will hold the **Fund** from the **Transfer Day** on the terms and conditions of this **Deed**.
- 1.1.2 The **Scheme** continues the **Defined Benefit Component** of the **Former Scheme**.
- 1.1.3 Subject to the terms and conditions of this **Deed** and the **Act**, the **Board** must act as trustee of the **Scheme** and the **Fund**.
- 1.1.4 The **Fund**:
- a) is to form part of the Retirement Benefits Fund; and
  - b) is to be administered by the **Board** as a sub-fund of the Retirement Benefits Fund.
- 1.1.5 The **Fund** and any money received by the **Board** in respect of the **Scheme** shall be held by the **Board** in accordance with the terms and conditions of this **Deed**.
- 1.1.6 The **Board** is constituted and continued in existence under section 7 of the *Retirement Benefits Act 1993* with the corporate name of "the Retirement Benefits Fund Board" and shall, notwithstanding any change in membership of that **Board**, continue in existence as a body corporate with that corporate name.
- 1.1.7 The **Board**:
- a) has perpetual succession;
  - b) has a common seal;
  - c) may take proceedings, and be proceeded against, in its corporate name;
  - d) may acquire, hold and dispose of real and personal property;
  - e) has the functions imposed, and the powers conferred, on it by this **Deed**, the **Act** or any other Act; and
  - f) may do and be subject to all other things that bodies corporate may, by law, do or be subject to, being things necessary for, or conducive or incidental to, the discharge of its functions and the exercise of its other powers.
- 1.1.8 The common seal of the **Board** shall not be attached to a document except by resolution of the **Board** and every sealing shall be authenticated by the signature of 2 members of the **Board** and the **Chief Executive Officer**.

1.1.9 A **Member**, a **Member's** dependants and a **Member's** beneficiaries, as the case may be, shall have an interest in the **Fund** that is conferred on that person under the provisions contained in this **Deed** but shall not have any interest in any particular part of the **Fund** or in any particular investment of the **Fund**.

## **1.2 APPLICATION OF COMMONWEALTH AND STATE LAW**

1.2.1 The Retirement Benefits Fund is an exempt public sector superannuation scheme for the purposes of the **SIS Act**.

1.2.2 The **Scheme** is to be administered in accordance with the requirements of the standards prescribed for the purposes of the **SIS Act**, or any other law of the Commonwealth or **State** as amended from time to time relating to superannuation which is applicable to matters arising under this **Deed** and shall have effect in relation to those matters as if they were included in this **Deed**.

1.2.3 Notwithstanding sub-clause 1.2.2, this **Deed** may provide for **Benefits** in excess of those requirements of the standards prescribed for the purposes of the **SIS Act**.

1.2.4 The *Retirement Benefits Act 1993* and the *Retirement Benefits Regulations 2005* (other than Part 5) apply in respect of an employee who becomes a **Member** of the **Scheme**, except to the extent of any inconsistency with this **Deed**, the **Act** and the **Regulations**.

## 1.3 INTERPRETATION

1.3.1 In this **Deed**, unless the contrary intention appears:

"**Act**" means the *Retirement Benefits (Tasmanian Ambulance Service Superannuation Scheme) Act 2006*;

"**Actuary**" means:

- a) a person who is a Fellow of either the Institute of Actuaries (Australia), the Institute of Actuaries (London) or the Faculty of Actuaries (Edinburgh); or
- b) an organisation which employs such persons,

that is appointed by the **Minister** for the purposes of the *Retirement Benefits Act 1993* and the person appointed as **Actuary** pursuant to the **Former Trust Deed**;

"**Ambulance Service**" means the Tasmanian Ambulance Service established under the *Ambulance Service Act 1982*;

"**Assessable Income**" has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

"**Award**" means an agreement certified or award made on or after 1 July 1986 or any other arrangement which the **Ambulance Service** and the **Board** agree should be treated as an **Award**;

"**Benefit**" means any entitlement paid, or authorised to be paid, by the **Board** out of the **Fund** pursuant to this **Deed** to, or in respect of, a **Member** subject to Commonwealth taxation where applicable;

"**Board**" means the Retirement Benefits Fund Board continued in existence under section 7 of the *Retirement Benefits Act 1993*;

"**Board Member**" means a member of the Retirement Benefits Fund Board as constituted pursuant to section 8 of the *Retirement Benefits Act 1993*;

"**Chief Executive Officer**" means the Chief Executive Officer of the **Board** appointed under regulation 12 of the *Retirement Benefits Regulations 2005*;

"**Commissioner of Taxation**" means the person who is holding office as, or acting in the office of, the Commissioner of Taxation under the *Taxation Administration Act 1953* of the Commonwealth;

"**Complying Superannuation Plan**" has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

"**Composite Salary**" means composite salary or wages (excluding overtime) as defined in the relevant **Award**;

**“Compulsory Contributions”** means:

- a) contributions the **Ambulance Service** makes for a **Member** to the **Scheme** under an **Award**; and
- b) contributions the **Ambulance Service** makes for a **Member** for the purpose of avoiding any **Superannuation Guarantee Charge**;

**“Concessional Contributions”** has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

**“Date of Admission”** means the date upon which an **Employee** became a member of the **Former Scheme**;

**“Day Worker”** means an **Employee** whose ordinary weekly hours of work are performed within the days Monday to Friday inclusive;

**“Deed”** means this Trust Deed as amended, revoked or substituted in accordance with section 6 of the **Act** and clause 11 of this **Deed**;

**“Defined Benefit Component”** means the part of the **Former Scheme** that, immediately before the **Transfer Day**, is not the total of all Accumulated Credits (as defined in the **Former Trust Deed**) provided for under the **Former Trust Deed**;

**“Directed Termination Payment”** has the same meaning as in section 82.10F of the *Income Tax (Transitional Provisions) Act 1997* of the Commonwealth;

**“Element Taxed in the Fund”** has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

**“Element Untaxed in the Fund”** has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

**“Employee”** means any person in **Service** other than a person whose terms of employment preclude eligibility of the **Scheme** under law;

**“Employer Contributions”** means:

- a) contributions paid to the **Scheme** by the **Ambulance Service** in accordance with clause 5.1 of this **Deed**; and
- b) includes contributions paid in respect of a **Member** by the **Ambulance Service** in accordance with sub-clause 5.2.4 of the **Deed**;

**“Family Law Act”** means the *Family Law Act 1975* of the Commonwealth;

**“Family Law Regulations”** means the *Family Law (Superannuation) Regulations 2001* of the Commonwealth;

**“Final Average Salary”** in relation to a **Member** means the average of **Salaries** on the first day of each July in the period of three years ending on the date of leaving **Service**. If the **Member** joined the **Service** during the three year period, the **Member's Salary** at the date on which the **Member** joined the **Service** is taken to have been received by the **Member** before that date for the purposes of this definition. **PROVIDED THAT** in respect of a **Former Shiftworker**, **Final Average Salary** means the average of the highest three consecutive years of **Salary** of the **Member** prior to the date of leaving **Service**;

**“Former Scheme”** means the Tasmanian Ambulance Service Superannuation Scheme as administered by the **Former Trustee** immediately before the **Transfer Day**;

**“Former Shiftworker”** means a **Member** whose employment status has changed from **Shiftworker** to **Day Worker** and who satisfies all of the following conditions:

- a) the **Member** elected at the date of the change in the **Member's** employment status to be classified as a **Former Shiftworker** for the purposes of this **Deed**;
- b) the **Member** had attained the age of fifty-five at the time of the change in the **Member's** employment status (unless the **Ambulance Service** and the **Board** agree to waive this requirement);
- c) the **Member** had served at least twenty years of **Service** as a **Shiftworker**; and
- d) the **Member** is contributing at the rate of 5% of the **Member's** equivalent **Composite Salary**;

**“Former Trust Deed”** means the Deed of Trust executed on 26 June 1996 by the person holding office as the Director of Ambulance Services under the *Ambulance Service Act 1982* to govern the administration of the **Former Scheme** and includes all amendments to it;

**“Former Trustee”** means Tasmanian Ambulance Superannuation Pty Ltd (ACN 074 500 119) in its capacity as trustee of the **Former Scheme**;

**“Fund”** means the assets and liabilities of the **Scheme** continued under the **Act** and this **Deed** and is to be known as the Tasmanian Ambulance Service Superannuation Scheme Fund;

**“Gazette”** means the publication known as the *Tasmanian Government Gazette*;

**“Incapacity”** means **Permanent Incapacity** or **Temporary Incapacity**;

**“Legal Personal Representative”** means the executor or executrix of the will or administrator of the estate of a deceased person, the trustee of the estate of a person under a legal incapacity, the administrator of a person appointed pursuant to the *Guardianship and Administration Act 1995* or a person who holds an enduring power of attorney granted by a person in relation to matters generally pertaining to this **Deed**;

**“Member”** means a person who has been admitted to the **Scheme** by operation of Part 4 of this **Deed** and retains an interest in the **Fund** which is conferred on that person under the provisions contained in this **Deed**;

**“Member Contributions”** means contributions paid in accordance with clause 5.2 of this **Deed**;

**“Minister”** means the Minister responsible for the administration of the **Act**;

**“Non-Concessional Contributions”** has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

**“Non-Member Spouse”** has the meaning given by section 90MD of the **Family Law Act**;

**“Normal Retirement Date”** means the day on which a **Member** reaches the age of 65;

**“Part-time Employment”** means employment for less time per week than the standard time per week which is applicable to the **Member’s** occupation by reason of:

- a) an **Award**; or
- b) a condition of employment specified by the **Ambulance Service** (disregarding overtime or similar arrangements);

**“Permanent Incapacity”** means “totally and permanently disabled” or suffering “total and permanent disablement” or any corresponding term as defined in any insurance policy which provides benefits on disablement under which the **Board** has insured the **Member**, and includes any period of absence stipulated in the policy, and if there is no such policy, has such meaning as is determined by the **Board** and notified to the **Members** from time to time;

**“PSSR Act”** means the *Public Sector Superannuation Reform Act 1999*;

**“Regulations”** means the regulations prescribed in accordance with the **PSSR Act** or the **Act**;

**“Reorganisation”** of the **Ambulance Service** includes any amalgamation, merger, reconstruction, arrangement or takeover involving the **Ambulance Service**;

**“Required Payment Date”** means any date at which a **Member’s Benefit** must be paid or commence to be paid under law;

**“Responsible Officer”** means a person employed by the **Ambulance Service** to whom is assigned the duty of conducting the business of the **Ambulance Service** relating to the **Scheme**;

**“Retrenchment”** means the termination by the **Ambulance Service** of the employment of a **Member** before the **Normal Retirement Date** for any of the following reasons:

- a) the work for which the **Member** was engaged has been completed;
- b) the position for which the **Member** was engaged has ceased to exist and the **Member’s** services are no longer necessary;
- c) the amount of work to be carried out by the **Ambulance Service** has diminished and has rendered a reduction in the number of **Employees** necessary or expedient; or
- d) as a result of the **Reorganisation** of the **Ambulance Service** or rearrangement of staff for business policy reasons, the **Member’s** services have become redundant,

so long as, in the opinion of the **Board**, the **Ambulance Service** has not offered comparable alternative employment to the **Member**;

**“Roll-over Superannuation Benefit”** has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

**“RSA”** means a Retirement Savings Account within the meaning of the *Retirement Savings Accounts Act 1997* of the Commonwealth;

**“Salary”** means, in respect of a **Member** who is:

- a) not a **Shiftworker**, the gross annual wage or salary of the **Member** including margins for skill, and any amount paid for or on behalf of, or the value assessed by the **Board** of non-pecuniary benefits received by, the **Member** if the **Member** has the option of receiving the amount or benefit as annual wage or salary, but excluding overtime and any other payments and allowances;
- b) a **Shiftworker**, the gross annual wage or salary of the **Member** including shift allowance, margins for skill, and any amount paid for or on behalf of, or the value assessed by the **Board** of non-pecuniary benefits received by, the **Member** if the **Member** has the option of receiving the amount or benefit as annual wage or salary, but excluding overtime and any other payments and allowances,

**PROVIDED THAT**

- c) during any period of absence without wage or salary the **Member’s**

**Salary** shall for the purposes of this **Deed** be adjusted in accordance with any express provisions in that regard in this **Deed**;

- d) the **Member's Salary** shall be deemed to continue unaltered throughout any period during which the **Member** suffers a **Temporary Incapacity**;
- e) in respect of a **Former Shiftworker**, **Salary** means (except for the purposes of clause 6.7) **Composite Salary**; and
- f) the **Member's Salary** may be adjusted by the **Board** for all or any purposes of this **Deed** having regard to sub-clause 5.2.4;

**"Scheme"** means the Tasmanian Ambulance Service Superannuation Scheme as continued under the **Act** and this **Deed**;

**"Scheme Earning Rate"** means a rate determined under sub-clause 8.1.1 **PROVIDED THAT** in respect of contributions made or deemed to be made before 1 July 1990, the rate is 10% per annum from 1 July 1987 (or the date the contribution was made, if later) to 30 June 1990, and the **Scheme Earning Rates** during the period from 1 July 1990 and ending on the day immediately prior to the **Transfer Day** are the rates declared as Scheme Earning Rates under the provisions of the **Former Scheme**;

**"Service"** means actual employment or appointment (counted in years and complete months) to perform functions for the purposes of the *Ambulance Service Act 1982* in respect of which the **Member** receives **Salary** and includes any period during which the **Member** suffers a **Temporary Incapacity**;

**"Shiftworker"** means an **Employee** whose ordinary weekly hours of work are performed in accordance with a roster that regularly includes Saturdays, Sundays and public holidays;

**"SIS Act"** means the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;

**"Spouse"** includes the person with whom a **Member** is in a significant relationship, within the meaning of the *Relationships Act 2003*;

**"State"** means the State of Tasmania;

**"Superannuation Accumulation Fund"** means the fund of that name established by the Government of Tasmania to receive award contributions made in respect of Tasmanian public servants;

**"Superannuation Benefit"** has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

**"Superannuation Contributions"** means **Employer Contributions** and **Member Contributions**;

“**Superannuation Guarantee Charge**” means a charge or tax imposed on employers for not making certain superannuation contributions or providing certain superannuation benefits;

“**Surviving Partner**” means a person who the **Board** is satisfied that, at the time of a **Member’s** death –

- a) a person was the **Spouse** of the **Member** who was living with the **Member** on a genuine domestic basis and was receiving significant financial support from the **Member**; or
- b) if there is no person referred to in paragraph a), a person was the **Spouse** of the **Member** and was living with the **Member** on a genuine domestic basis; or
- c) if there is no person referred to in paragraphs a) or b), a person was the **Spouse** of the **Member** who was not living with the **Member** on a genuine domestic basis but was receiving significant financial support from the **Member**;

“**Tax Free Component**” has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

“**Temporary Incapacity**” means “totally and temporarily disabled” or suffering “total and temporary disablement” or any corresponding term as defined in any insurance policy which provides benefits on disablement under which the **Board** has insured the **Member**, and includes any period of absence stipulated in the policy, and if there is no such policy, has such meaning as is determined by the **Board** and notified to the **Members** from time to time;

“**Transfer Day**” means the day specified by the **Minister** under section 4(6) of the **Act**, in a notice approving the **Deed**, as the day the **Deed** is to take effect;

“**Transferring Member**” means any person who immediately before the **Transfer Day** was contributing to, or required to contribute to, or was deemed to be contributing to, the **Former Scheme** and who was an **Employee** immediately prior to 30 June 2006.

1.3.2 In this **Deed** unless the contrary intention applies:

- a) if all or part of any provision in this **Deed** is void or invalid for any reason whatsoever or would otherwise result in all or part of the **Deed** being void or invalid, the provision or part thereof shall be severed from this **Deed** and shall not affect the validity or operation of all or part of any other provision of this **Deed**;
- b) the provisions of the *Retirement Benefits Act 1993* and the *Retirement Benefits Regulations 2005* do not operate so as to disturb the effect of any provisions of the **Act** and any **Regulations** prescribed in accordance with the **Act**;
- c) a reference to any Act, Regulations, agreement or document is to that Act, Regulations, agreement or document and where applicable, any of its provisions as amended, novated, supplemented or replaced from time to time;
- d) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- e) where an obligation in this **Deed** is binding on more than one party to the **Deed** the obligation is binding jointly and severally and nothing in the **Deed** and no action by the recipient of the obligation shall affect the right of the recipient to make any claim or commence any action or proceedings against any or all of the parties under the obligation;
- f) where an expression is defined in the singular, the plural form of that expression has a corresponding meaning;
- g) a reference to an Act, whether Commonwealth or State, in this **Deed** means that Act as amended from time to time;
- h) words and expressions used in this **Deed** which are defined in the *Acts Interpretation Act 1931* are to be construed as if this **Deed** were an Act;
- i) where a word is in bold type, that word has the meaning prescribed in sub-clause 1.3.1, otherwise the word has its ordinary meaning; and
- j) a reference in this **Deed** to a period expressed in years includes, where appropriate, a reference to a period expressed in years together with a fraction of a year that is expressed in days.

## 2 ADMINISTRATION

### 2.1 POWERS AND FUNCTIONS OF BOARD

2.1.1 The functions of the **Board** are to:

- a) manage the **Scheme** and the **Fund** so as to maximise the return earned on the **Fund**, having regard to the need to:
  - i) exercise reasonable care and prudence so as to maintain the integrity of the **Fund**; and
  - ii) provide for payments out of the **Fund**;
- b) establish policies and procedures to administer the collection and receipt of contributions and the payment of **Benefits** having due regard to the need for equity among **Members**, their dependants and beneficiaries;
- c) establish policies in respect of the administration of this **Deed** and the investment of money standing to the credit of the **Fund** and to adopt strategies designed to achieve those policies;
- d) provide directions to the **Chief Executive Officer** as the officer responsible for the implementation of **Board** policies and strategies;
- e) ensure its operations are conducted in an efficient, cost-effective and economic manner; and
- f) take, purchase, lease, hold, sell, exchange and dispose of real and personal property for the purposes of this **Deed**.

2.1.2 The **Board** covenants:

- a) to act honestly in all matters concerning this **Deed**;
- b) to exercise, in relation to all matters affecting the **Fund**, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another person for whom that person felt morally bound to provide;
- c) to ensure that the **Board's** functions and powers are performed and exercised in the best interest of all **Members**;
- d) to keep the money and other assets of the **Fund** separate from any money and assets that are held personally by **Board Members**;
- e) not to enter into any contract, or do anything else, that would prevent the **Board** from, or hinder the **Board** in, properly performing or exercising its functions and powers pursuant to this **Deed**;

- f) to formulate and give effect to an investment strategy that has regard to the whole of the circumstances of the **Fund** including, but not limited to, the following:
  - i) the risk involved in making, holding and realising, and the likely return from, the **Fund's** investments having regard to its objectives and its expected cash flow requirements;
  - ii) the composition of the **Fund's** investments, where appropriate, as a whole, including the extent to which the investments are diverse or involve the **Fund** in being exposed to risks from inadequate diversification;
  - iii) the liquidity of the **Fund's** investments, having regard to its expected cash flow requirements; and
  - iv) the ability of the **Board** to discharge the **Fund's** existing and prospective liabilities as and when they become due and payable;
- g) if there are any reserves of the **Fund**, to formulate and give effect to a strategy for the prudent management of those reserves; and
- h) to allow a **Member** access to any information or any documents prescribed under an Act of the Commonwealth or **State** that may be relevant to the **Member** but not including information referred to in sub-clause 2.1.3.

2.1.3 In performing its functions, the **Board** must have regard to the need to protect information, the disclosure of which could adversely affect the financial position or the commercial or other operations of the **Board**.

2.1.4 The **Board** may:

- a) appoint agents and attorneys;
- b) act as an agent for other persons;
- c) engage consultants;
- d) appoint investment managers, custodians, insurers and consultants; and
- e) act on the advice of the above persons with respect to the management and administration of the **Scheme** and **Fund**.

2.1.5 The **Board** shall, as part of the annual report required under Regulation 19 of the *Retirement Benefits Regulations 2005*, include:

- a) a report on the operations of the **Fund** during the financial year; and
- b) an audited statement of the financial position of the **Fund**.

## 2.2 ADMINISTRATION OF THE SCHEME

- 2.2.1 The management of the **Scheme** shall be undertaken by the **Board**.
- 2.2.2 The **Chief Executive Officer** shall exercise such powers and authorities and perform such duties and functions as are prescribed or as the **Board** may authorise or direct.
- 2.2.3 The **Chief Executive Officer** shall be responsible for providing the **Board** with an efficient, cost-effective and economic administration.
- 2.2.4 The **Chief Executive Officer** may utilise such officers of the **Board** as he or she considers necessary for the purpose of enabling the **Board** to properly perform its functions under this **Deed**.
- 2.2.5 The **Board** may engage an independent contractor or contractors to undertake all or any part of the administration of the **Scheme**.

## 2.3 DELEGATION

- 2.3.1 The **Board** may, by an instrument of delegation under its common seal, delegate to a **Board Member**, the **Chief Executive Officer** or an officer of the **Board** acting jointly or severally, any power or duty of the **Board** under this **Deed** other than the power of delegation.
- 2.3.2 A duty or power, the performance or exercise of which has been delegated under this clause, may, while the delegation remains unrevoked, be performed or exercised from time to time in accordance with the terms of the delegation.
- 2.3.3 A delegation under this clause may be made subject to such conditions or limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstance, as are specified in the instrument.
- 2.3.4 Notwithstanding any delegation, the **Board** may continue to perform or exercise all or any of the functions or powers delegated.
- 2.3.5 Any act or thing done by or to a delegate while acting in the exercise of a delegation under this clause shall have the same force and effect as if the act or thing had been done by or to the **Board** and shall be deemed to have been done by or to the **Board**.

- 2.3.6 Any act or thing done by or to a delegate while acting in the exercise of a delegation under this clause shall be reported to the **Board** at its next ordinary meeting, or as otherwise determined by the **Board**.
- 2.3.7 An instrument purporting to be signed by a delegate of the **Board** in his or her capacity as such a delegate shall be deemed to be an instrument signed by the **Board** under this clause.

### 3 ESTABLISHMENT OF FUND

#### 3.1 OPERATION OF FUND

3.1.1 On the transfer of the **Scheme**, the **Board** shall establish a **Fund** comprising such accounts and reserves as, in the opinion of the **Board**, are necessary or convenient for the administration of the **Scheme**.

3.1.2 As prescribed by section 7 of the **Act**:

- a) the **Scheme** is a superannuation scheme which is incorporated into the Retirement Benefits Fund as constituted under the *Retirement Benefits Act 1993*; and
- b) the **Fund** is a sub-fund of the Retirement Benefits Fund.

3.1.3 The **Board** may, where appropriate, cause to be paid to the **Fund**:

- a) contributions made by the **Ambulance Service**;
- b) contributions made by **Members**;
- c) **Roll-over Superannuation Benefits** or transferred **Superannuation Benefits** received on behalf of **Members**;
- d) **Directed Termination Payments** or other money authorised to be paid into the **Fund**;
- e) income derived from investments of the **Fund**, including any profit made from the realisation of any investments of the **Fund**;
- f) money borrowed for the purposes of clause 3.3;
- g) any other income derived from the operation of any clause of this **Deed**; and
- h) any other amount that the **Board** considers appropriate and is allowable under the law of the Commonwealth or the **State**.

3.1.4 Money that is to be paid into the **Fund** is to be paid to the **Board**.

3.1.5 The **Board** shall, where appropriate, cause to be met from the **Fund**:

- a) administration costs and any other management charges as determined by the **Board** arising from either administering this **Deed** or meeting any obligation arising as a consequence of this **Deed**;
- b) the **Benefits** payable under this **Deed**;
- c) expenses associated with the investment of money standing to the credit of the **Fund**;
- d) the cost of borrowing funds for the purposes of clause 3.3; and

- e) any audit, insurance or actuarial costs incurred in the administration and management of this **Deed**.

3.1.6 The **Board** may, where appropriate, cause to be met from the **Fund** the payment of any tax, duty, impost or surcharge liability imposed under the law of the Commonwealth or **State** on the **Fund** or in respect of any **Benefits** payable by the **Board** from the **Fund**.

3.1.7 The **Board** shall not make any payments from the **Fund** to the **Board** or the **Ambulance Service** except for:

- a) expenses incurred in the administration of the **Scheme**;
- b) a refund of overpaid contributions; or
- c) such payments as are permitted by the **SIS Act**.

## **3.2 INVESTMENT OF FUND**

3.2.1 The **Board** must ensure that the assets of the **Fund** are invested in a manner that is consistent with the standards prescribed for regulated superannuation funds in accordance with the **SIS Act**.

3.2.2 Money standing to the credit of the **Fund** may be invested by the **Board** in any manner in which the **Board** thinks fit.

3.2.3 For the purposes of clause 3.2.2, the **Board** may:

- a) investigate, negotiate for, promote, create, acquire, underwrite, sub-underwrite, dispose of, transfer, collect, realise, alter, convert, improve, exploit, insure, extend, reconstruct, develop, manage and otherwise deal with and turn to account any property and any right, contract, option or like in respect of property in any manner, with or without security or liability to any conditions acceptable to the **Board**;
- b) exercise all powers appertaining or incidental to any manner or form of property and discharge from the **Fund** all costs of and incidental to the powers of the **Board** under this **Deed**, including, without limitation, costs of the investigation of and negotiation for property which does not become part of the **Fund**;
- c) issue, acquire or participate in and perform any obligation under or in respect of any synthetic investment or transaction including without limitation a futures contract, hedge contract, swap contract or option contract whether or not related to any other property forming part of the **Fund**;
- d) borrow funds in accordance with clause 3.3;

- e) acquire any property either alone or in conjunction with any other person, including without limitation the **Board** acting as trustee or manager of another trust or scheme, and mix money or property forming part of the **Fund** with any other money or property, including without limitation money or property held or administered by the **Board** as trustee or manager of another trust or scheme, but so long as at all times separate and distinct records are maintained in order to enable ready identification of the moneys and property attributable to the **Fund**; and
- f) cause or allow any property to be acquired and held in the name of the **Board** or of another person acceptable to the **Board**, whether or not that other person acts for the **Board** alone or for the **Board** and another person.

3.2.4 The **Board** may authorise an investment manager or custodian to perform powers and duties of the **Board** with respect to all or part of the moneys of the **Fund** available for investment.

3.2.5 The **Board** must determine an investment strategy or strategies as soon as possible after the **Transfer Day** and shall review at least annually its investment strategy or strategies and the management and performance of its investments.

3.2.6 The **Board** must advise **Members** at least annually of its investment strategy or strategies and performance and of any changes to those investment strategy or strategies.

### 3.3 POWER TO BORROW FUNDS

3.3.1 The **Board** may borrow funds under this **Deed** provided that:

- a) the purpose is only for the payment of **Benefits**;
- b) approval is sought from the **Minister** on each occasion no less than 7 days prior to the intended borrowing of funds;
- c) the **Minister** is satisfied that there are no other liquid assets available that could be used to fund the payment of **Benefits** and approves of the borrowing of funds on the terms and conditions he or she may impose;
- d) the borrowing of funds is undertaken through the Tasmanian Public Finance Corporation;
- e) the period of the borrowing of funds shall not exceed 90 days and all repayments against the borrowings are made within a financial year; and
- f) the total amount borrowed by the **Board** shall not exceed 10% of the value of the assets of the **Fund**.

### 3.4 ACCOUNTS AND RECORDS

- 3.4.1 The **Board** must ensure that there are proper accounts and records kept of the transactions and affairs of the **Board** and any other record as shall sufficiently explain the financial operations and position of the **Fund**.
- 3.4.2 The **Board** is to:
- a) ensure that all money payable to the **Board** in relation to this **Deed** is properly collected;
  - b) ensure that all money expended by the **Board** in relation to this **Deed** is properly authorised;
  - c) ensure that adequate control is maintained over assets owned by or in the custody of the **Board**;
  - d) ensure that all liabilities incurred by the **Board** are properly authorised;
  - e) develop and maintain adequate budgeting and accounting systems;
  - f) develop and maintain adequate internal audit and corporate governance systems;
  - g) develop and maintain adequate performance management and continuous improvement systems; and
  - h) ensure that the accounts of the **Fund** are properly audited by the auditor appointed in accordance with this clause.
- 3.4.3 The **Board** must include a statement of the operation and the financial position of the **Fund** as at the end of each financial year in the annual report of the **Board** for the purposes of Regulation 19 of the *Retirement Benefits Regulations 2005*.
- 3.4.4 As soon as practicable after 30 June each year, the **Board** must prepare the statement of accounts of the **Fund** in accordance with the Australian Accounting Standards.
- 3.4.5 The auditor of the **Fund** shall be the Auditor-General as appointed pursuant to the *Financial Management and Audit Act 1990*.
- 3.4.6 The cost of auditing the **Fund** is to be met from the **Fund**.

### 3.5 TAXATION PROVISION ACCOUNT

- 3.5.1 The Board may establish within the **Fund** a taxation provision account for **Fund** accounting purposes.
- 3.5.2 Where a taxation provision account has been established under sub-clause 3.5.1, the **Board** is to credit to the taxation provision account any tax deducted from **Members'** accounts and any taxation provision applicable to the **Fund's** investment earnings.
- 3.5.3 Where a taxation provision account has been established under sub-clause 3.5.1, the **Board** is to debit to the taxation provision account all or part of the tax paid to the **Commissioner of Taxation** pursuant to the *Income Tax Assessment Act 1936* of the Commonwealth and the *Income Tax Assessment Act 1997* of the Commonwealth, applicable to the **Fund**.
- 3.5.4 If, at the end of the financial year, the taxation provision account is in surplus or deficit, the **Board** must determine whether or not to:
- a) distribute the surplus to, or recover the deficit from, **Members** or the **Fund**; or
  - b) carry forward the provision to the next financial year.

### 3.6 INVESTMENT INCOME RESERVE ACCOUNT

- 3.6.1 The **Board** may establish within the **Fund** an investment income reserve account.
- 3.6.2 Any surplus or deficit investment income may be credited to, or debited from, the investment income reserve account and distributed to, or deducted from, **Members'** accounts.
- 3.6.3 If at the end of each financial year the investment income reserve account is in surplus, the **Board** must determine, on the advice of the **Actuary**, whether or not to distribute all or part of the surplus to **Members** by way of an adjustment to investment returns, or by way of transfer to the **Fund**.
- 3.6.4 If at the end of each financial year the investment income reserve account is in deficit, the **Board** must, on the advice of the **Actuary**, reduce **Members'** account balances by way of adjustment to investment returns, or by way of transfer from the **Fund**.

## 4 MEMBERSHIP

### 4.1 MEMBERSHIP OF SCHEME

4.1.1 Every person who is a **Transferring Member** shall be a **Member** of the **Scheme** and remain so, provided he or she retains a financial interest in the **Fund**, which is conferred on him or her under the provisions contained in this **Deed**. For the avoidance of doubt, an **Employee** appointed or employed on or after 30 June 2006 is not entitled to become a **Member** of the **Scheme**.

4.1.2 A **Member**, the **Spouse** or **Surviving Partner** of a **Member**, or a **Legal Personal Representative** of a **Member** shall be entitled to receive **Benefits** in accordance with this **Deed**.

### 4.2 ESTABLISHMENT OF MEMBER ACCOUNTS

4.2.1 The **Board** may establish such accounts and determine such administrative policy and terms and conditions that are necessary for the efficient and effective administration of **Members'** accounts.

4.2.2 Following the establishment of **Members'** accounts, the **Board**:

- a) must credit to such accounts, where appropriate:
  - i) all **Ambulance Service** superannuation contributions paid on behalf of **Members**;
  - ii) all contributions paid by **Members**;
  - iii) investment returns determined according to the **Scheme Earning Rates**; and
  - iv) any other amount authorised by this **Deed** and considered appropriate by the **Board**;
- b) may debit to such accounts, where appropriate:
  - i) surcharge liability payments, taxation provisions or any other amounts required by the law of the Commonwealth or **State**;
  - ii) the cost of providing cover for **Benefits** on the death or **Incapacity** of a **Member** as provided by this **Deed**;
  - iii) administration and management charges as provided by this **Deed**; and
  - iv) any other amount authorised by this **Deed** and considered appropriate by the **Board**.

### 4.3 DEATH AND INCAPACITY COVER

4.3.1 The **Board** is authorised and empowered to arrange cover for death and **Incapacity Benefits** and to receive and give full and effectual receipts, releases and discharges in respect of the payment of any moneys under any such cover as may be required from it and which it thinks proper having regard to the circumstances. Any such cover shall be effected in the name of the **Board** and remain under the control of the **Board** during the time it is subject to the provisions of this **Deed**. The **Board** only shall be entitled to enforce any rights, remedies or contract in connection with any such cover or incidental to it, and shall be solely entitled to the full benefits and advantages of such cover, and no **Member** or any person claiming through or under the **Member** shall have or claim any right, title or interest in or to any such cover or contract or in respect of the moneys payable thereunder.

4.3.2 If the **Board** takes out or increases insurance, or seeks to do so, in relation to a **Member's Benefit** and the insurer:

- a) does not accept the **Member** on its standard terms; or
- b) restricts the level or scope of insurance; or
- c) for any reason does not pay the whole or any part of a claim,

then the **Board** may modify the **Member's Benefit** as it considers appropriate if this is not contrary to law or the requirements imposed in similar circumstances on regulated superannuation funds by the **SIS Act**.

## 5 CONTRIBUTIONS

### 5.1 AMBULANCE SERVICE SUPERANNUATION CONTRIBUTIONS

- 5.1.1 The **Board** must, having regard to the **Actuary's** recommendations, determine the rate at which the **Ambulance Service** must contribute to the **Scheme** in respect of **Members**. The **Board** may determine a new rate of contributions required from the **Ambulance Service** whenever it considers appropriate.
- 5.1.2 The **Ambulance Service** must contribute to the **Scheme** in respect of a **Member** at the rate determined by the **Board** until the **Member** leaves **Service** or receives a **Benefit** under sub-clause 6.1.9 or 6.3.2.
- 5.1.3 The **Board** may, having regard to the advice of the **Actuary**, decide that contributions are not required from the **Ambulance Service**.
- 5.1.4 The **Ambulance Service** shall contribute to the **Scheme** such additional amounts as the **Minister**, on the recommendation of the **Actuary**, may direct so as to enable the **Board** to meet its liabilities under this **Deed**.

### 5.2 OBLIGATION OF MEMBERS TO CONTRIBUTE

- 5.2.1 The rate of **Member** contributions is either 5%, 6%, 7%, 8%, 9%, 10% or 11% (as selected by the **Member**) of **Salary**. A **Member** may, with effect from 1 July each year or such other date as is agreed by the **Board**, change the **Member's** contribution rate to any of these permitted rates.
- 5.2.2 Until the rate of contribution is changed pursuant to sub-clause 5.2.1, a **Transferring Member** is taken to be making the same rate of contribution, including no contribution, as he or she was making immediately before the **Transfer Day**.

- 5.2.3 A **Member** must contribute to the **Scheme** at the rate selected by that **Member** from time to time until the earliest of the dates on which the **Member**:
- a) leaves **Service**; or
  - b) reaches the **Normal Retirement Date**; or
  - c) reaches the **Required Payment Date**,

**PROVIDED THAT** no **Member** contributions are payable while a **Member** suffers a **Temporary Incapacity**, and the **Member** contributions which would otherwise be payable but for this proviso are deemed for the purposes of this **Deed** to have been paid by that **Member**.

- 5.2.4 A **Member** who is an **Employee**, the **Board**, and the **Ambulance Service** may agree that rather than deducting that **Member's** contributions from the **Member's Salary**, an amount equal to those contributions after allowing for contributions tax, and any other tax agreed between the **Member** and the **Ambulance Service**, is paid to the **Board** by the **Ambulance Service** in respect of the **Member** in lieu of **Salary**.
- 5.2.5 Any deductions from a **Member's Salary** by the **Ambulance Service** and paid to the **Board**, or amounts paid to the **Board** in lieu of a **Member's Salary**, which do not comply with sub-clauses 5.2.3 or 5.2.4 (as the case may be) or with the **Member's** instructions are deemed not to be contributions pursuant to this **Deed** and are to be repaid to the **Member**.
- 5.2.6 Unless otherwise agreed pursuant to sub-clause 5.2.4, a **Member** shall have his or her regular contributions automatically deducted from his or her **Salary** by the **Ambulance Service**.

### **5.3 TIME AND MANNER OF PAYING CONTRIBUTIONS**

- 5.3.1 Unless otherwise approved by the **Board**, the **Ambulance Service** shall cause to be shown as separately identifiable amounts on each pay-slip of every **Member** the amount of **Ambulance Service** additional employer contributions made to the **Fund** on the **Member's** behalf and the amount of **Member** contributions deducted from the **Member's Salary**.
- 5.3.2 The **Responsible Officer** must certify and forward, within 7 days of the relevant payday, a return to the **Board**, in such manner as determined by the **Board**, detailing the total amount for that pay period of **Ambulance Service** superannuation contributions, additional employer contributions and **Member** contributions paid on behalf of each **Member**.
- 5.3.3 Contributions, including additional employer contributions, payable by the **Ambulance Service** or deducted from the **Member's Salary** are to be forwarded to the **Board** within 7 days of the relevant payday.

## 5.4 TEMPORARY ABSENCES

### 5.4.1 If a **Member**:

- a) takes unpaid leave with the **Ambulance Service's** consent; or
- b) elects with the consent of the **Board** to suspend or reduce contributions,

then during that period:

- c) the **Member's Salary** is deemed to continue unaltered;
- d) the **Member** may contribute amounts approved by the **Board**;
- e) if it is in respect of unpaid leave, the **Ambulance Service's** liability to contribute under clause 5.1 in respect of that **Member** ceases except to such extent as the **Board** may require in relation to charges of the **Scheme**;
- f) if it is in respect of an election to suspend or reduce contributions, the **Ambulance Service's** liability to contribute under clause 5.1 in respect of that **Member** ceases except:
  - i) to such extent as the **Board** requires in relation to expenses of the **Scheme**; and
  - ii) for **Compulsory Contributions**;
- g) the **Board** may discontinue or reduce any insurance in relation to the **Member** and make consequential adjustments to **Benefits** as it considers appropriate;
- h) the **Board** may require the **Member** to provide such evidence of good health as may be necessary to reinstate any insurance; and
- i) the **Board** may in its discretion formulate any other terms relating to the calculation of any **Benefit** which may become payable during or after that period.

5.4.2 The **Board** must notify the **Member** of any adjustment or determination made or terms formulated under this clause 5.4 which affects or could affect the **Member's Benefit**.

## 5.5 PART-TIME EMPLOYMENT

5.5.1 In relation to any period of **Part-time Employment** or any portion of such a period, the **Ambulance Service** may request the **Board** to give effect to any or all of the following provisions:

- a) the contributions payable by and in respect of the **Member** during the period of **Part-time Employment** may be adjusted as the **Board** considers to be reasonable and equitable having regard to:
  - i) the time per week for which the **Member** is engaged in **Part-time Employment**;
  - ii) the standard time per week referred to in the definition of **Part-time Employment**;
  - iii) the wishes of the **Ambulance Service**; and
  - iv) any relevant provisions contained in the law prescribed for regulated superannuation funds in similar circumstances;
- b) the basis of determining the **Member's Benefit** may be adjusted in such manner as the **Board** considers to be reasonable and equitable having regard to:
  - i) the extent by which the contributions are adjusted under sub-clause 5.5.1 a); and
  - ii) the other matters referred to in that sub-clause;
- c) the **Board** may seek to adjust any insurance in relation to the **Member** as it considers to be appropriate in the circumstances, and may require the **Member** subsequently to provide such evidence of good health as may be necessary in connection with the insurance; and
- d) the **Board** may vary any adjustment made under this rule in the event of any material alteration in the circumstances of **Part-time Employment** of the **Member**.

5.5.2 The **Board** must notify the **Member** of any adjustment or determination made under this clause 5.5 which affects or could affect the **Member's Benefit**.

## 6 BENEFITS

### 6.1 BENEFIT PAYMENT STANDARDS

- 6.1.1 **Benefits** become payable on the happening of any one of the events specified in this Part.
- 6.1.2 **Benefits** payable under this **Deed** may be paid by the **Board** only where regulated superannuation funds are permitted by the **SIS Act** to make such payments in similar circumstances.
- 6.1.3 All **Benefits** preserved in accordance with this Part or by the **Board** under this **Deed** shall be preserved and vested in the **Member** in such accounts as the **Board** determines having regard to the wishes of the **Member**.
- 6.1.4 A preserved **Benefit** becomes payable when the **Board** is either notified or becomes aware that the **Member** has satisfied the conditions of release prescribed under the operation of this Part.
- 6.1.5 The **Board** shall notify the **Member**, or his or her **Surviving Partner**, or his or her **Legal Personal Representative**, of the entitlement to a preserved **Benefit** when it becomes payable under this Part by sending a written notice to the last known address of the **Member**, or the **Member's Surviving Partner** or that of his or her **Legal Personal Representative**.
- 6.1.6 Every person in receipt of, or claiming, a **Benefit** from the **Scheme** shall produce to the **Board** such information, documents and other evidence as may be required by the **Board** for the purposes of this **Deed**.
- 6.1.7 If a person fails to produce the required information, documents and other evidence, the **Board** may withhold payment or suspend payment of the **Benefit** or refuse to consider the claim until the requirements of the **Board** are met.
- 6.1.8 Any **Benefit** payable pursuant to the **Scheme** (except a **Temporary Incapacity Benefit**) must be paid as a lump sum.
- 6.1.9 Except when in receipt of a **Benefit** under sub-clause 6.7.1, if a **Member** remains in **Service** but reaches the **Required Payment Date**, the **Board** must pay to or on behalf of that **Member** the **Benefit** under sub-clause 6.3.1 or 6.3.2.
- 6.1.10 At the time that a **Benefit** becomes payable or available for transfer, the **Board** may reduce that **Benefit** by any amount owed by the **Member** to the **Scheme** or the **Board**, if a regulated superannuation fund would be permitted by the **SIS Act** to make such a reduction in similar circumstances.

## 6.2 OUTWARD PORTABILITY

- 6.2.1 The **Board** must transfer a **Member's Benefit** to an **RSA** or a **Complying Superannuation Plan**, if at any time a **Member** so elects, or without the consent of the **Member** if this is consistent with the law. However:
- a) the transfer may only occur where regulated superannuation funds are permitted under the **SIS Act** to make such a transfer in similar circumstances; and
  - b) where a **Member** has made an election under this clause but remains in **Service**, the **Board** must determine the appropriate amount to be transferred in the circumstances.
- 6.2.2 A transfer under sub-clause 6.2.1 satisfies the **Member's** entitlement to any **Benefit** in respect of the amount transferred, and the **Board** may declare that it satisfies the **Member's** entitlement in full. The **Board** is not responsible for the manner in which the trustee of the other fund deals with the amount transferred.

## 6.3 RETIREMENT BENEFIT

### 6.3.1 A **Member** who leaves **Service**:

- a) at or after the **Normal Retirement Date**;
- b) within ten years before the **Normal Retirement Date**; or
- c) with the consent of the **Ambulance Service**, at any time, on account of ill-health such that the **Member** is, in the opinion of the **Board**, unable to continue employment with the **Ambulance Service** but is not eligible for a **Benefit** under clause 6.6,

is entitled to a **Benefit** equal to the amount calculated using the following formula:

**Final Average Salary** x **Accrued Retirement Multiple**,

where **Accrued Retirement Multiple** is the total of the amounts obtained by multiplying the number of years of **Service** as a **Member** during which the **Member's** contribution rate was the percentage set out in the left hand column of the table below by the corresponding percentage specified in the right hand column:

| Member Contribution Rate | Percentage |
|--------------------------|------------|
| 4.7%                     | 17.375%    |
| 5%                       | 17.75%     |
| 6%                       | 19.00%     |
| 7%                       | 20.25%     |
| 8%                       | 21.50%     |
| 9%                       | 22.75%     |
| 10%                      | 24.00%     |
| 11%                      | 25.25%     |

### 6.3.2 The **Board** may pay a **Benefit** to a **Member** who:

- a) is in **Service** on or after the **Normal Retirement Date**; and
- b) requests payment,

equal to the **Benefit** which would have been payable under sub-clause 6.3.1 had the **Member** retired on the **Normal Retirement Date** together with interest from that date at the **Scheme Earning Rate**.

## 6.4 REDUCTIONS IN SALARY

- 6.4.1 Where a **Benefit** becomes payable to or in respect of a **Member** and the **Member's Salary** is less than the highest of the **Member's** previous **Salaries**, the **Benefit** payable in relation to the **Member** may be increased by such amount as the **Board** may determine having regard to the advice of the **Actuary**.

## 6.5 DEATH BENEFIT

- 6.5.1 Subject to sub-clause 6.5.2, on the death of a **Member** in **Service** the **Board** must pay:
- a) in respect of a **Member** who is under age 55 at the date of death, an amount equal to the **Benefit** which would have been payable under sub-clause 6.3.1 had the **Member** remained in **Service** until the **Member** attained age 55 and assuming, for the prospective period from the date of death until the **Member's** fifty-fifth birthday, that the **Member's** contribution rate is 6% and the **Member's Salary** remains unchanged over that period; or
  - b) in respect of any other **Member**, an amount equal to the **Benefit** which would have been payable under sub-clause 6.3.1 had the **Member** retired on the date of death.
- 6.5.2 In respect of a **Member** whose **Date of Admission** was on or before 30 June 1994, the **Benefit** payable under sub-clause 6.5.1 must not be less than the aggregate of the benefit which would have been payable under the **Former Scheme's** rules in force at that date and the death benefit under the rules of the **Superannuation Accumulation Fund** at that date.

## 6.6 PERMANENT INCAPACITY

- 6.6.1 A **Member** who leaves **Service** because of **Permanent Incapacity** is entitled to a **Benefit** equal to the amount calculated under clause 6.5.

## 6.7 TEMPORARY INCAPACITY

- 6.7.1 If, before the **Normal Retirement Date**, a **Member** suffers **Temporary Incapacity** and remains in **Service**, then at each date on which proceeds of insurance in respect of the **Member** is credited to the **Scheme** there will be payable to the **Member** a **Benefit** equal to the amount of the proceeds.

## 6.8 LEAVING SERVICE

- 6.8.1 Subject to sub-clause 6.8.2, a **Member** who leaves **Service** in circumstances other than those described in sub-clauses 6.3.1, 6.5 and 6.6.1 is entitled to a **Benefit** equal to the amount calculated using the formula:

$$\text{Final Average Salary} \times \text{Accrued Retirement Multiple} \times \text{Factor},$$

where Accrued Retirement Multiple is calculated as set out in sub-clause 6.3.1 and where Factor is determined as follows (complete months count pro rata):

| Age of Member | Factor |
|---------------|--------|
| 50 or more    | 1      |
| 49            | 0.980  |
| 48            | 0.961  |
| 47            | 0.942  |
| 46            | 0.924  |
| 45            | 0.906  |
| 44            | 0.888  |
| 43            | 0.871  |
| 42            | 0.853  |
| 41            | 0.837  |
| 40            | 0.820  |
| 39            | 0.804  |
| 38            | 0.788  |
| 37            | 0.773  |
| 36            | 0.758  |
| 35 or less    | 0.750  |

- 6.8.2 If the **Member** is leaving **Service** as a result of **Retrenchment**, the **Member** is entitled to a **Benefit** under sub-clause 6.3.1.

## 6.9 AUGMENTATION

- 6.9.1 The **Board** may with the approval of the **Ambulance Service** and having regard to the advice of the **Actuary** augment any **Benefit** payable from the **Scheme**. However, any augmentation of a **Benefit** payable under sub-clause 6.8.1 may not exceed the amount calculated by the **Actuary** as the **Member's** equitable share of the **Scheme**. The **Ambulance Service** must contribute such additional amount as is determined by the **Board** (having regard to the advice of the **Actuary**) to be required to provide such augmented **Benefit**.
- 6.9.2 If a death **Benefit** becomes payable from the **Scheme** and the **Board** considers that it may be augmented by a tax deduction, then the **Board** may augment the death **Benefit** by the amount of the expected tax deduction.

## 6.10 MINIMUM BENEFIT

- 6.10.1 The **Benefit** payable in relation to a **Member** who dies or leaves **Service** for any reason will not be less than the minimum benefit:
- a) specified in a current benefit certificate issued by the **Actuary** in accordance with the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth, or, if no such certificate has yet been issued, in a benefit certificate issued by the **Actuary** in accordance with the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth that was current for the **Former Scheme** immediately prior to the **Transfer Day**; and
  - b) required by law to be vested in the **Member** as a consequence of the **Member's** participation in the **Scheme**.

## 6.11 SPLIT OF BENEFITS IN ACCORDANCE WITH FAMILY LAW ACT 1975

6.11.1 If a **Member's** account is subject to a payment split as defined in section 90MD of the **Family Law Act**, that payment split is to be implemented in accordance with the provisions of:

- a) Part VIIIIB of the **Family Law Act**;
- b) the **Family Law Regulations**; and
- c) Part 7A of the *Superannuation Industry (Supervision) Regulations 1994* of the Commonwealth.

6.11.2 If a **Member's** account is subject to a payment flag as defined in section 90MD of the **Family Law Act**, that payment flag is to be applied in accordance with the provisions of:

- a) Part VIIIIB of the **Family Law Act**; and
- b) the **Family Law Regulations**.

6.11.3 When the **Board** implements a payment split under sub-clause 6.11.1, it must adjust, vary or reduce any **Benefit** payable or which may become payable from the **Scheme** in respect of the relevant **Member** on such basis and at such times as the **Board** determines from time to time on the advice of the **Actuary** (including by the establishment of a debt account), where a regulated superannuation fund would be permitted by the **SIS Act** or the **Family Law Act** to make such an adjustment, variation or reduction in similar circumstances.

6.11.4 The **Board** may formulate and give effect to policies and procedures in relation to:

- a) the timing of the calculation of the value of the interest of a **Non-Member Spouse**;
- b) the manner in which the **Member's** interest in the **Scheme** following a payment split may be adjusted; and
- c) other matters relating to the payment split and the **Member's** and **Non-Member Spouse's** interest in the **Scheme**,

as it determines from time to time.

6.11.5 Where an eligible person, within the meaning of section 90MZB of the **Family Law Act**, has applied to the **Board** for information in accordance with that section about the superannuation interest of a **Member**, the **Board** must comply with the requirements of that Act.

- 6.11.6 The **Board** may impose fees in relation to any:
- a) application for information relating to a superannuation interest;
  - b) payment split or payment flag; or
  - c) other matter,
- relating to Part VIIIIB of the **Family Law Act**, as permitted by that Act.

## **6.12 MEMBERS WHOSE DATE OF ADMISSION IS ON OR BEFORE 30 JUNE 1996**

- 6.12.1 The amount of any **Benefit** payable under sub-clause 6.3.1 or 6.8 (as the case may be) to a **Member** whose **Date of Admission** is on or before 30 June 1996 must not be less than the aggregate of:
- a) the amount payable at the date of leaving **Service** as if the equivalent provision of the governing rules of the **Former Scheme** as at 30 June 1994 were still in effect on the date of leaving **Service**;
  - b) the amount of the **Member's** benefit on leaving **Service** as at 30 June 1994 under the rules of the **Superannuation Accumulation Fund** at that date less any tax payable on the transfer of that benefit to the **Former Scheme** together with interest at the **Scheme Earning Rate** from 30 June 1994 to the date of leaving **Service**; and
  - c) 3% of the **Member's Salary** for the period 1 July 1994 to the earlier of 30 June 1996 and the date the **Member** leaves **Service** less any contributions tax payable on that amount plus interest at the **Scheme Earning Rate** to the date of leaving **Service**.

## **7 THIS CLAUSE INTENTIONALLY BLANK**

## 8 FINANCIAL PROVISIONS

### 8.1 FIXING OF SCHEME EARNING RATE

8.1.1 The **Board** is to calculate and determine a **Scheme Earning Rate** (which may be positive or negative) at least annually, having regard to:

- a) the earning rates of the **Fund**;
- b) the **Board's** investment strategy and policy;
- c) any allowances for unrealised capital gains or losses; and
- d) the cost of administration, investment management, taxation and other expenses the **Board** has paid or is likely to pay as provided by clause 8.2.

8.1.2 The **Board** is to credit (or debit, where appropriate) to a **Member's** account or accounts interest at the **Scheme Earning Rate** at least annually.

8.1.3 The **Board** may whenever it considers appropriate calculate and determine an interim earning rate (which may be positive or negative) having regard to the considerations set out at sub-clause 8.1.1, to be applied:

- a) to a **Benefit** which becomes payable or to a transfer of a **Benefit** in respect of a **Member**; or
- b) for any other purpose,

for the period since the Transfer Day or the last date at which a **Scheme Earning Rate** or interim earning rate was determined, whichever is the later.

8.1.4 The **Board** must determine whether the **Scheme Earning Rate** or interim earning rate is to be applied:

- a) on daily balances;
- b) on average balances; or
- c) on some other basis.

### 8.2 COST OF ADMINISTRATION

8.2.1 The costs incurred in connection with the administration and management of this **Scheme** including the costs of administration, marketing and promotion and investment are to be met from the **Fund** in a manner to be determined by the **Board**.

8.2.2 The **Board** must at least annually determine and approve a budget for the administration and management of the **Scheme** and the **Fund**.

### 8.3 TIME AND MANNER OF BENEFIT PAYMENTS

- 8.3.1 The **Board** is to use its best endeavours to ensure that a **Benefit** payable under this **Deed** is paid as soon as is practicably possible but no later than 20 working days after the **Board** has received a completed payment instruction form for a **Benefit** from a **Member** or his or her **Legal Personal Representative**.
- 8.3.2 The **Board** may at its discretion credit interest at a rate determined pursuant to clause 8.1 to a **Benefit** which is not paid within this period.

### 8.4 TAXATION OF CONTRIBUTIONS AND LUMP SUM BENEFITS

- 8.4.1 For the purpose of taxation of **Superannuation Contributions** under the law of the Commonwealth, the **Board** is to treat-
- a) all **Employer Contributions** as **Concessional Contributions**; and
  - b) all **Member Contributions** which have been included in the **Assessable Income** of the **Fund** as **Concessional Contributions**; and
  - c) all **Member Contributions** which have not been included in the **Assessable Income** of the **Fund** as **Non-Concessional Contributions**; and
  - d) the **Element Untaxed in the Fund** of **Roll-over Superannuation Benefits** as **Assessable Income** of the **Fund**; and
  - e) the **Element Untaxed in the Fund** of transferred **Superannuation Benefits** as **Assessable Income** of the **Fund**.
- 8.4.2 The **Board**, having regard to the law of the Commonwealth, must –
- a) establish and maintain policies and administrative procedures with respect to the taxation of **Superannuation Contributions** and **Superannuation Benefits**; and
  - b) determine, from time to time –
    - i) the proportion of a **Superannuation Benefit** that is to be treated by the **Board** as an **Element Untaxed in the Fund** for the purposes of the *Income Tax Assessment Act 1997* of the Commonwealth; and
    - ii) the proportion of a **Superannuation Benefit** that is to be treated by the **Board** as an **Element Taxed in the Fund** for the purposes of the *Income Tax Assessment Act 1997* of the Commonwealth;

and

iii) the proportion of a **Superannuation Benefit** that is to be treated by the **Board** as the **Tax Free Component** for the purposes of the *Income Tax Assessment Act 1997* of the Commonwealth.

8.4.3 The **Board**, in accordance with the law of the Commonwealth, must deduct from **Roll-over Superannuation Benefits, Superannuation Contributions** and **Superannuation Benefits** all amounts required to be paid as taxation under the law of the Commonwealth and remit those amounts to the **Commissioner of Taxation**.

8.4.4 A **Benefit** payable under this **Deed** is to be reduced at the time of payment by the **Board** in accordance with sub-clause 8.5.12.

#### **8.4A NOTIONAL TAXED CONTRIBUTIONS**

8.4A.1 For the purposes of this **Deed**, the **Board** must calculate for each **Member** the notional taxed contributions for a financial year having regard to Subdivision 292-D of the *Income Tax Assessment Act 1997* and *Income Tax Assessment Regulations 1997* of the Commonwealth.

#### **8.5 ESTABLISHMENT OF SURCHARGEABLE CONTRIBUTIONS DEBT ACCOUNT**

8.5.1 The **Board** must calculate for each **Member** a notional contributions surcharge amount having regard to either his or her **Salary** and the notional surchargeable contributions factor provided to the **Board** by the **Actuary** as required by the law of the Commonwealth and this **Deed**, or if no such factor has yet been provided, the last such factor that was current for the **Former Scheme** immediately prior to the **Transfer Day**.

8.5.2 The **Board** must provide the **Commissioner of Taxation**, as required by the law of the Commonwealth, with particulars of the notional contributions surcharge amount in respect of each **Member**.

8.5.3 Where a **Member** so requests, the **Board** is to give to that **Member** a copy of the particulars given to the **Commissioner of Taxation** under sub-clause 8.5.2 relating to that **Member** together with details of how the notional contributions surcharge amount was calculated.

- 8.5.4 If a **Member** believes that the amount referred to in sub-clause 8.5.2 is incorrect, the **Member** may by notice in writing to the **Board**:
- a) request that the calculation of the amount be reviewed; and
  - b) request the **Board** to consider any evidence which the **Member** may submit to it.
- 8.5.5 If a surchargeable contributions debt or similar account was established for a **Member** by the **Former Trustee**, that account shall continue to have effect after the **Transfer Day** as if it was a surchargeable contributions debt account established by the **Board** pursuant to this clause 8.5.
- 8.5.6 Subject to sub-clause 8.5.7, on receipt of an assessment notice from the **Commissioner of Taxation** in respect of a **Member**, the **Board** must establish a surchargeable contributions debt account in the name of the **Member**, debit it by the amount of any surcharge contributions tax liability specified in the notice of assessment relating to the **Member**, and pay that amount to the **Commissioner of Taxation**.
- 8.5.7 On receipt of an assessment notice or amended assessment notice from the **Commissioner of Taxation** in respect of a **Member** in circumstances where a surchargeable contributions debt account has already been established for the **Member**, the **Board** shall not debit the account by the amount of the surcharge contributions tax liability specified in the notice, but shall adjust the balance of the account to reflect the change in the **Member's** surcharge contributions tax liability required by the notice by comparison with the last of such notices previously provided by the **Commissioner of Taxation** in respect of the **Member**, and pay or recover from the **Commissioner of Taxation** the amount by which the surchargeable contributions debt account has been adjusted.
- 8.5.8 If the surchargeable contributions debt account is in debit at the end of a financial year, the **Board** must, in accordance with the law of the Commonwealth, debit the account with interest at the **Scheme Earning Rate**.
- 8.5.9 A **Member** may make payments to his or her surchargeable contributions debt account to reduce in full or in part the balance of that account. A payment made under this sub-clause is taken not to be a contribution for the purposes of this **Deed**.
- 8.5.10 A payment made under this clause by the **Ambulance Service** on behalf of a **Member** as part of his or her remuneration is taken to be a contribution by the **Ambulance Service** for the purposes of this **Deed**.

- 8.5.11 On receipt of a payment under sub-clause 8.5.9 or 8.5.10, the **Board** must:
- a) credit the surchargeable contributions debt account of the relevant **Member** with that amount; and
  - b) take any other action required under the law of the Commonwealth relating to the surcharge liability.
- 8.5.12 Where a lump sum **Benefit** entitlement becomes payable by the **Board** to a **Member** whose account established or maintained under this clause is or has been in debit, the **Board** must reduce the **Benefit** payable by the extent of:
- a) the balance of the **Member's** surchargeable contributions debt account; and
  - b) any foregone investment earnings and associated amounts.
- 8.5.13 The **Board** must, at least annually, inform each **Member** of the balance of his or her surchargeable contributions debt account and of any debits or credits, including interest, to that account.

## **8.6 PROVISION OF CERTAIN INFORMATION BY THE BOARD**

- 8.6.1 The **Board** must provide the **Actuary** with such information in respect of **Members** as may be necessary for the purposes of this **Deed**.
- 8.6.2 The **Board** must provide the **Commissioner of Taxation** with such information in respect of **Members** as may be required under the law of the Commonwealth.
- 8.6.3 The **Board** must, at least annually, distribute to each **Member**:
- a) a report of its operations during the last financial year; and
  - b) a statement of the benefit entitlement of that **Member** and the balance of his or her account, detailing the total interest credited or debited, administration and management charges, death and incapacity premiums deducted and any surcharge or taxation liabilities deducted from the account or accounts; and
  - c) a statement of the **Board's** current investment strategies and performance.

## 8.7 CERTIFICATES

- 8.7.1 The **Board** must comply with the financial management standards prescribed for regulated superannuation defined benefit funds by the **SIS Act**.
- 8.7.2 The **Board** must obtain from the **Actuary** all relevant certificates required by the **SIS Act** to be obtained by regulated superannuation funds from actuaries, together with all other certificates required to be obtained by the **Board** from the **Actuary** by law.

## 9 GENERAL PROVISIONS

### 9.1 THIS CLAUSE INTENTIONALLY BLANK

### 9.2 PAYMENT ON DEATH OR PERMANENT INCAPACITY

9.2.1 If a **Member** becomes entitled to a **Permanent Incapacity Benefit**, the **Board** shall pay the **Benefit** to that **Member**, unless in the opinion of the **Board** the **Member** is incapable of administering his or her own affairs, in which case the **Board** shall pay the **Benefit** to the **Member's Spouse** or **Legal Personal Representative**.

9.2.2 Except as provided in sub-clause 9.2.3, where a lump sum **Benefit** is payable under this **Deed** on the death of a **Member**, that **Benefit** is to be paid to:

- a) the **Surviving Partner** of that **Member**; or
- b) if there is no **Surviving Partner**, the person with whom the **Member** was in a caring relationship which was the subject of a deed of relationship registered under Part 2 of the *Relationships Act 2003*, which deed was revoked by the death of that **Member**; or
- c) if there is no person referred to in sub-clause 9.2.2 a) or b), the estate of that **Member**, subject to the production of grant of probate or letters of administration; or
- d) a person, where applicable, in accordance with clause 9.10.

9.2.3 Notwithstanding sub-clause 9.2.2, a **Member** may, by notice in writing to the **Board**:

- a) elect that in the event of his or her death all or part of the **Benefit** payable on his or her death is to be paid to his or her estate; or
- b) revoke any such election,

and, where the election is in force, sub-clause 9.2.2 does not apply to any part of the **Benefit** that is subject to the election.

9.2.4 This clause does not apply to the **Spouse** of a **Member** who at the time of the **Member's** death was separated and living apart from the **Member** and was not, in the opinion of the **Board**, receiving significant financial support from the **Member**.

9.2.5 If, upon the death of a **Member**, a question arises as to who is the **Surviving Partner** of that **Member** at the time of his or her death, for the purposes of this **Deed** the question is to be determined by the **Board** having regard to such matters as it considers relevant.

- 9.2.6 If the **Board** is unable to determine who is the **Surviving Partner** of the **Member** at the time of his or her death, after any enquiry it considers appropriate under this clause, any **Benefit** that would otherwise be payable to the **Surviving Partner** of the **Member** shall be paid to the **Member's Legal Personal Representative**.
- 9.2.7 When determining a question under sub-clause 9.2.5, the **Board** must not determine more than one person to be the **Surviving Partner** of a **Member**.

### **9.3 POLICIES AND PROCEDURES TO BE ADOPTED BY THE BOARD**

- 9.3.1 The **Board** shall formulate and give effect to policies and procedures in relation to, but not limited to, the following:
- a) investment strategy and objectives;
  - b) income distribution and interest rates;
  - c) contribution collection and account administration;
  - d) taxation strategy;
  - e) the management of reserves;
  - f) the determination of and setting of administration and management costs; and
  - g) other administrative matters,
- that are necessary for the efficient and effective management of the **Scheme** and in the interests of **Members**.
- 9.3.2 The **Board** shall maintain a register of the policies and procedures referred to in this clause and make those policies available to **Members**, provided the disclosure of such policies and procedures shall not adversely affect the financial, commercial or other operations of the **Board**.
- 9.3.3 If, in the opinion of the **Board**, there is a significant change in a policy or procedure referred to in this clause and this change may adversely affect **Members** or a class or category of **Members**, the **Board** must notify such **Members** of the change as soon as practicable given the nature of the change and any requirement arising from the law of the Commonwealth.

## 9.4 AMBULANCE SERVICE TO PROVIDE INFORMATION

- 9.4.1 The **Ambulance Service** shall submit to the **Board**, in such manner and form as the **Board** may determine, such information or evidence as the **Board** requires relating to **Members** who are or were **Employees** of the **Ambulance Service**.
- 9.4.2 Where the **Ambulance Service** fails to provide the necessary information or evidence in relation to a **Member**, the **Board** may defer payment of a **Benefit** to, or in relation to, that **Member** where the information sought is relevant to the payment of the **Benefit**.

## 9.5 DUTIES OF RESPONSIBLE OFFICER

- 9.5.1 The **Responsible Officer** must, on or before the **Transfer Day**, notify the **Board** in writing, or in a manner approved by the **Board**, of the following details for **Members** who are **Employees**:
- a) surname and given names;
  - b) date of birth;
  - c) sex and marital status;
  - d) postal address;
  - e) private address;
  - f) tax file number;
  - g) employment status and percentage of full-time equivalent hours;
  - h) commencement date of service; and
  - i) rate of **Salary**, including such information as may be required by the **Board** to allow the **Board** to assess the value of non-pecuniary benefits received by **Members**.
- 9.5.1A Upon a request from the **Board**, a **Responsible Officer** must provide the **Board** with the tax file number of a **Member** to enable the **Board** to administer the **Fund** in accordance with the *Income Tax Assessment Act 1997* of the Commonwealth.
- 9.5.2 The **Responsible Officer** must:
- a) on being notified by the **Member** of any changes in the information referred to in sub-clause 9.5.1 a), b), c), d), e) or f), immediately notify the **Board** in writing, or in any other manner approved by the **Board**, of those changes;
  - b) immediately notify the **Board** in writing or in any other manner approved by the **Board** of any changes in the information referred to in sub-clause 9.5.1 g), h) or i) and provide a copy of this

notification to the **Member**; and

- c) on a **Member** leaving **Service**, or the death of a **Member**, furnish the **Board** with any documents completed by the **Member**, that **Member's Surviving Partner** or **Legal Personal Representative** and the **Responsible Officer** that may be necessary to support the payment of **Benefits** accruing under this **Deed**.

9.5.3 On receipt of information referred to in sub-clause 9.5.1 or 9.5.2, the **Board** must deliver or forward to the **Member**:

- a) any relevant forms, notices of election and brochures required to be provided to the **Member** by this **Deed**; and
- b) information and notices required to be provided to the **Member** under any law of the Commonwealth for the purposes of this **Deed**.

## 9.6 CLAIMANT TO PROVIDE INFORMATION

9.6.1 Any person who submits a claim in relation to this **Deed** does so on the basis that the **Member** to whom the claim relates is deemed to have approved of, and be bound by, the **Deed** in all respects as if the **Member** were an original party to this **Deed**.

9.6.2 The **Board** may require a **Member** or a claimant for payment of a **Benefit** under this **Deed**:

- a) to provide the **Board** with specified information or evidence referred to in clause 9.5 in a manner approved by the **Board**;
- b) to provide the **Board** with authority to request from a third person any such information or evidence; or
- c) in the case of a claimant for an **Incapacity Benefit**, to undergo any medical examinations by such legally qualified and registered medical practitioners as may be required by the **Board** or the insurer.

9.6.3 A requirement under sub-clause 9.6.2 may be made only in relation to information, evidence or a medical examination that is relevant to the assessment of an application made by the claimant for payment of the **Benefit**.

9.6.4 Where:

- a) the **Member** or claimant, to whom a requirement under this clause relates, fails to comply with the requirement or, in purported compliance with the requirement, makes or provides an untrue statement; or
- b) a person referred to in this clause fails to provide information or evidence that the **Board** has been authorised to request from the person or, in purported compliance with the request by the **Board** for the information or evidence, makes or provides an untrue statement,

the **Board** may take such action in relation to the **Benefit** concerned as, in the opinion of the **Board**, would place the claimant as nearly as possible in the same position as the claimant would be if the true information or evidence had been provided.

9.6.5 For the purposes of this clause, "untrue", in relation to a statement, includes:

- a) false or misleading in the form and context in which the statement appears; and
- b) false or misleading by reason of the omission from the statement of matter that is material.

## 9.7 MAKING OF ELECTIONS, DIRECTIONS, CLAIMS OR APPLICATIONS

9.7.1 An election, direction, claim or application under this **Deed**:

- a) must be in writing signed by the person entitled to make the election, direction, claim or application and in such form as the **Board** determines;
- b) subject to sub-clause 9.7.2, is not valid unless it is received in the office of the **Board**;
- c) takes effect when it is received in the office of the **Board**, except that the **Board** may, if it thinks fit, accept that an election, direction, claim or application lodged with the **Ambulance Board** takes effect from the date it is so lodged.

- 9.7.2 Where an election, direction, claim or application is not received in the office of the **Board** within the time prescribed for the election, direction, claim or application and the **Board** is satisfied that, having regard to all the circumstances of the case, it is desirable that the election, direction, claim or application should be accepted, the **Board** may, subject to such terms and conditions as it may impose, accept the election, direction, claim or application and deal with it as if it had been received within the time so prescribed.
- 9.7.3 For the purposes of this **Deed** the office of the **Board** is located at 39 Sandy Bay Road, Hobart, Tasmania.

## 9.8 ASSIGNMENT OF BENEFIT

- 9.8.1 Except as provided by clause 9.10, a **Benefit** payable under this **Deed**:
- a) is not available as security for a loan and is not otherwise subject to any assignment, mortgage, charge, encumbrance or lien; and
  - b) on the death of the **Member** so entitled is not, in the absence of a **Surviving Partner**, available as an asset in his or her estate for the payment of his or her debts or liabilities; and
  - c) is not capable of being assigned, charged, taken in execution or passed under any law to any person other than the **Member** to whom it is payable.
- 9.8.2 Nothing in this clause prevents the **Board** from making, at the request of a person to whom an amount by way of a **Benefit** is payable, a payment of the whole or a part of the amount on behalf of the person as a payment due to the **Board** pursuant to the *Retirement Benefits Regulations 2005* and this **Deed**.
- 9.8.3 Any payment made under this clause shall be deemed to have been made to the person entitled to the **Benefit**.

## 9.9 RECOVERY OF MONEY OWING TO THE SCHEME

- 9.9.1 The **Board** may recover from a **Member**, beneficiary, or other person, any money which was paid in excess of the **Member's Benefit**, together with interest calculated in accordance with this clause, unless the **Board**, having regard to the circumstances of the **Member**, determines otherwise.

- 9.9.2 The **Board** shall recover from the **Ambulance Service** any payments to the **Fund of Ambulance Service** superannuation contributions, additional employer contributions and **Member** contributions that have not been forwarded to the **Board** within seven days of the relevant payday and those payments shall attract interest calculated in accordance with this clause.
- 9.9.3 Payments from the **Ambulance Service** to the **Fund of Ambulance Service** superannuation contributions, additional employer contributions and **Member** contributions are to be credited to the **Members'** accounts as if they were received on the relevant payday.
- 9.9.4 The interest determined under sub-clause 9.9.2 is the liability of the **Ambulance Service** and not the **Member**.
- 9.9.5 Interest is calculated on a daily basis using the Bloomberg's 90 day Bank Bill Swap Reference Rate, as published in the Australian Financial Review, on the day the amount became due for payment, plus 4%, and is payable on any amount owing to the **Fund** calculated from the date on which the amount becomes due for payment until the date on which the amount, together with interest if applicable, is fully recovered by, or otherwise paid to, the **Board**.
- 9.9.6 Any interest paid under this clause is to be credited to the investment income reserve account established under clause 3.6.

## **9.10 PAYMENT WITHOUT GRANT OF PROBATE**

- 9.10.1 If, 3 months after the death of a **Member**, a **Benefit** not exceeding \$50,000 is payable under this **Deed** and the **Board** has not received:
- a) a certified copy of the probate of the will, or the letters of administration of the estate, of the deceased **Member**; or
  - b) a notice of intention to apply for a grant of probate of the will, or letters of administration of the estate, of the deceased **Member**,
- the **Board** may, at its discretion, make a payment of the **Benefit** to that **Member's Legal Personal Representative**.

## 9.11 RESTORATION OF LOST RIGHT UNDER DEED

9.11.1 Where a person was entitled to exercise a right or enjoy a privilege or benefit under this **Deed** and, without having exercised the right or enjoyed the privilege or benefit otherwise than through his or her own fault, the person ceases to be entitled to do so, the person may exercise the right or enjoy the privilege or benefit if:

- a) the **Board**, being satisfied that it is just and equitable to all **Members** of the **Fund** that it should do so, gives its consent to the exercise by the person of the right or the enjoyment by the person of the privilege or benefit; and
- b) the person fulfils any conditions imposed, and complies with any requirements made, by the **Board** in giving its consent.

9.11.2 Where the **Board** consents to an election, or an application to the **Board**, being made after the time before which, but for that consent, it should have been made, the **Board** may, if it thinks fit, deal with the election or application as if it had been made before that time.

## 9.12 PAYMENT WHERE RECIPIENT INCAPABLE

9.12.1 Notwithstanding anything contained in this **Deed**, where a person entitled to receive a **Benefit** under this **Deed** is unable to make reasonable judgments as to the management of his or her affairs, the **Board** may withhold payment of the **Benefit** for a period of up to 30 days or for such longer period as may be directed by the Guardianship and Administration Board.

## 9.13 UNCLAIMED BENEFITS

9.13.1 Where the **Board** has, in accordance with the law of the Commonwealth, written to a **Member** who is aged 65 years or over, advising of a **Benefit** that has become payable under this **Deed** and the period of six months has elapsed without response from the **Member**, the **Benefit** entitlement is deemed to be unclaimed monies.

9.13.2 The **Board** must complete and forward a statement of unclaimed monies, together with payment in accordance with the *Unclaimed Moneys Act 1918*, for the following periods:

- a) in relation to a six month period ending on 30 June, on or before the following 31 October; and
- b) in relation to a six month period ending on 31 December, on or before the following 30 April; or
- c) such other period as allowed by the *Unclaimed Moneys Act 1918*.

## 9.14 PAYMENT WHERE BENEFICIARY BANKRUPT

9.14.1 Where the person to whom a **Benefit** is payable is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy, the **Board** may pay an amount or amounts, not exceeding in total the amount of the **Benefit**, to the person entitled under those laws to administer the bankrupt estate.

## 9.15 SERVICE OF NOTICES BY THE BOARD

9.15.1 Where under this **Deed** a notice or other document is required or authorised to be served on a person by the **Board** and there is no provision for the service of that notice elsewhere in this **Deed**, the notice may be served:

- a) by delivering it to him or her personally; or
- b) by leaving it at his or her place of residence last known to the **Board** with someone who apparently resides there, or at his or her place of employment with someone who is apparently employed there, being in either case a person who has, or apparently has, attained the age of 16 years; or
- c) by sending it by post to either his or her place of residence or to his or her place of employment last known to the **Board**.

9.15.2 A correctly addressed copy of a notice or document kept by the **Board**, including a copy kept in electronic form, is evidence that the notice or document has been served by the **Board** on the addressee.

9.15.3 Where under this **Deed** a notice or other document has been served on a person by the **Board** by sending the notice or document to that person by post, that notice or document is taken to have been received by that person on the third business day after posting.

## 9.16 MARKETING AND PROMOTION

9.16.1 The **Board** may, subject to the law of the Commonwealth, engage in any act or activity directly or indirectly or incidental to:

- a) marketing, promoting and advertising the **Scheme**; and
- b) educating **Members**,

or for any other purpose which the **Board** believes is in the best interests of **Members**.

9.16.2 The **Board** may only engage in activities referred to in sub-clause 9.16.1 when the **Board** has determined that:

- a) the activity is in the interests of **Members**;
- b) the expense of the activity is reasonable having regard to the likely benefits to **Members**; and
- c) the expense of the activity is reasonable having regard to the total assets of the **Fund**.

## 9.17 PROVISION OF INFORMATION TO THE MINISTER

9.17.1 The **Board** must provide any information pertaining to the **Scheme** or the **Fund** to the **Minister**, upon written request, as may be reasonably required by the **Minister**.

## 10 REVIEW OF BOARD DECISIONS

### 10.1 BOARD NOT SUBJECT TO DIRECTION

10.1.1 Except as provided in this **Deed**, a person is not to give a direction to the **Board**, vary a decision of the **Board** or substitute a decision for a decision of the **Board** if compliance with the direction, the variation or the substituted decision would be contrary to law or to this **Deed**.

10.1.2 Sub-clause 10.1.1 does not apply to a direction given by:

- a) a court; or
- b) a person that relates to the method of payment of the **Benefit** payable to that person.

### 10.2 HEARING BEFORE THE BOARD

10.2.1 In respect of any application or question arising under Parts 6 or 9 of this **Deed**, the **Board** must:

- a) make a preliminary decision on the matter;
- b) notify the applicant in writing of the preliminary decision; and
- c) advise the applicant that, if he or she does not take any action under this clause within 21 days after the date of written notification, the preliminary decision shall become the final decision of the **Board**.

10.2.2 An applicant may, within 21 days after the date of written notification under sub-clause 10.2.1, elect by notice in writing to the **Board**:

- a) to appear and be heard before the **Board**; and
- b) to submit any relevant medical report or other evidence.

- 10.2.3 Before making a final decision on the application or question, the **Board** may:
- a) require the applicant to undergo a further medical examination by a medical practitioner or practitioners the **Board** considers appropriate at the **Board's** cost;
  - b) seek further information from the **Ambulance Service** as the **Board** considers appropriate;
  - c) seek further information concerning the applicant's capacity and prospects for employment;
  - d) require the applicant to submit any further evidence the **Board** considers appropriate; and
  - e) take any other action the **Board** considers appropriate.
- 10.2.4 The **Board**, in the exercise of its powers under this clause, may impose any terms or conditions that it considers fair and equitable.
- 10.2.5 The **Board** may reduce or extend the 21 day election period referred to in sub-clause 10.2.2 on the written application of the applicant provided that the written application is received by the **Board** within the period of 21 days after the date of written notification by the **Board** under sub-clause 10.2.1.
- 10.2.6 If an election under this clause is not made within the required time, the preliminary decision becomes the final decision of the **Board**.

### **10.3 POWER TO APPLY TO SUPREME COURT FOR DECLARATION AS TO VALIDITY**

- 10.3.1 If the **Board** has made a final decision under clause 10.2 adversely to an applicant, he or she may, within 6 months after notification of the final decision, require the **Board** to apply to the Supreme Court for a declaration in respect of that final decision.
- 10.3.2 Subject to sub-clause 10.3.3, the Supreme Court, on an application under sub-clause 10.3.1, may make a declaration, having regard to facts existing and events that have occurred at the time the declaration is made, as to the validity or otherwise of the determination in respect of which the application is made.
- 10.3.3 The Supreme Court must not make a declaration under sub-clause 10.3.2 in respect of a determination the validity of which cannot be decided at the time when the Court is asked to make the declaration.

- 10.3.4 For the purpose of reviewing a determination by the **Board**, the Supreme Court has all the powers and discretions that are conferred on the **Board** by law or under the **Act**, the *Retirement Benefits Act 1993* or the *Retirement Benefits Regulations 2005*.
- 10.3.5 The Supreme Court may make a declaration:
- a) affirming the **Board's** decision; or
  - b) remitting the matter to which the **Board's** determination relates back to the **Board** for reconsideration in accordance with the directions of the Supreme Court; or
  - c) varying the **Board's** determination; or
  - d) setting aside the **Board's** determination and substituting a decision for the determination set aside.
- 10.3.6 Except as provided in sub-clauses 10.3.7 and 10.3.8, the cost of making the application to the Supreme Court is to be met by the **Board** from the **Fund**.
- 10.3.7 If a **Member**, a **Member's Surviving Partner** or **Legal Personal Representative** requires the **Board** to apply to the Supreme Court for a declaration, he or she must pay to the **Board** at the time of making that request an application fee of 200 fee units, within the meaning of the *Fee Units Act 1997*.
- 10.3.8 If the Supreme Court is of the view that the request made by the **Member**, the **Member's Surviving Partner** or **Legal Personal Representative** is frivolous or not in good faith, the Court may award costs in full or part against that person.

## **10.4 APPEAL AGAINST DECISION, DETERMINATION OR ORDER OF BOARD**

- 10.4.1 Notwithstanding clause 10.3, a person may appeal to a judge against any decision, determination or order of the **Board**.
- 10.4.2 Subject to sub-clause 10.4.3, an appeal under this clause is to be instituted, heard and determined in accordance with the *Supreme Court Rules 2000* relating to appeals from statutory tribunals other than courts.
- 10.4.3 Notwithstanding the provisions of the *Supreme Court Rules 2000*, a notice of appeal under this clause is to be served within 21 days after the date of the service on the appellant of the decision, determination or order appealed against, or any extended period a judge allows.

## 10.5 DUTY TO ESTABLISH ARRANGEMENTS FOR DEALING WITH INQUIRIES OR COMPLAINTS

10.5.1 The **Board** must take all reasonable steps to ensure that there are at all times arrangements in force under which:

- a) a **Member** or former **Member** may make an inquiry into, or complaint about, the operation or management of the **Scheme** in relation to that person;
- b) the **Legal Personal Representative** of a former **Member** may make an inquiry into, or complaint about, the operation or management of the **Scheme** in relation to the former **Member**; and
- c) without limiting the generality of paragraph a) or b), any person may make an inquiry into, or complaint about, a decision of the **Board** that relates to the payment of a death **Benefit** if:
  - i) the person has an interest in the death **Benefit**; or
  - ii) the person claims to be, or is, entitled to death **Benefits** through a person referred to in this clause.

10.5.2 The **Board** is to properly deal with the inquiry or complaint within 90 days of its receipt in notice in writing to the **Board**.

10.5.3 The **Board** may charge a fee when dealing with an inquiry or complaint and may waive or reduce the fee if it is satisfied that the applicant's intended use of the information is of general public interest or benefit.

10.5.4 The fee that may be charged by the **Board** in dealing with an inquiry or complaint is not to exceed 400 fee units within the meaning of the *Fee Units Act 1997*.

10.5.5 If the **Board** believes the fee may exceed 25 fee units within the meaning of the *Fee Units Act 1997*, the **Board** must notify the applicant and inquire whether the applicant wishes to proceed with the inquiry or complaint.

## 11 AMENDMENTS TO DEED

- 11.1.1 This **Deed** may be amended, revoked or substituted as provided by section 6 of the **Act** and this clause.
- 11.1.2 This **Deed** must not be altered so as to authorise the making of any payment from the **Fund** to the **Board** or the **Ambulance Service** other than expenses incurred in the administration of the **Scheme**, refunds of overpaid contributions, or such payments as are permitted by the **SIS Act**.
- 11.1.3 If directed by the **Minister**, the **Board** must prepare and submit to the **Minister** for approval, a draft of such amendments, revocations or substitutions that are required to be made to the **Deed**, within a period determined by the **Minister**.
- 11.1.4 An amendment to, or a revocation and substitution of, this **Deed** takes effect on the day specified for that purpose pursuant to the **Act**.
- 11.1.5 If there is an amendment to, or a revocation and substitution of this **Deed**, the **Board** shall notify all **Members** in accordance with the requirements prescribed for regulated superannuation funds by the **SIS Act**.

**IN WITNESS** whereof the parties have hereunto set their hands and seals to this Deed on the date hereinbefore first mentioned.

**SIGNED, SEALED AND DELIVERED** )  
by the **HONOURABLE MICHAEL** )  
**ANTHONY AIRD MLC** being and as ).....  
**the Minister administering the Act** )  
**in the presence of:-** )

Signature of Witness: .....

Name of Witness: .....

Address: .....

Occupation: .....

**THE COMMON SEAL** of the )  
**RETIREMENT BENEFITS FUND** )  
**BOARD** has been hereunto affixed )  
pursuant to a resolution of the said )  
**Board in the presence of:-** )

**President of the Board** .....

**Name** .....

**Member of the Board** .....

**Name** .....

**Chief Executive Officer**  
**of the Board** .....

**Name** .....