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Australia's Worst White-Collar Crime
Phillip Sweeney

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From: Phillip Sweeney <oursuperfund2012@gmail.com>
To: info@sct.gov.au,

3 Attachments



SCT Letter dated 23 Dec 2014.pdf SCT - Proving the Fraud.pdf Purported Deed of Variation 26 Aug 86.pdf

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Dear Ms Furlan

Please find attached the following documents which are now a matter of **Public Interest**

Yours Sincerely

Phillip Sweeney

{Victims' Action Group - The Provident Funds Fraud}
{aka Elders IXL Superannuation Fund Fraud}

23 December 2014

12 Highland Way

Highton, 3216

Attn: Ms J Furlan – Acting Chairperson

Superannuation Complaints Tribunal

info@sct.gov.au

Locked Bag 3060

GPO Melbourne Vic 3000

Dear Ms Furlan

RE: Australia's Worst White-Collar Crime

Please find attached the two documents that confirm *Australia's Worst White-Collar Crime*. The consolidation Deed of Variation dated 6 May 1958 was dishonestly concealed from the Tribunal by the former Fund Secretary, Margaret O'Halloran.

Ms O'Halloran represented the document dated 26 August 1986 as the "*Trust Deed*" of the fund to the Tribunal, when the genuine Trust Deed was made on the 23 December 1913.

Ms O'Halloran also criminally concealed the genuine Deeds of the fund from the members and beneficiaries for the sole purpose of defrauding them of their lawful entitlements.

Please also find attached the document titled "*How the Acting Chairperson of the Tribunal can prove the Fraud*".

In accordance with your statutory duty can you please "*give particulars*" of this matter including documents previously provided to the Tribunal by Ms O'Halloran to *ASIC, APRA* or Both pursuant to **Section 64** of the SRC Act.

This fraud is now a matter of *Public Interest*.

Yours sincerely

Phillip Sweeney

Attachments:

- Consolidation Deed of Variation dated 6 May 1958
- Purported Deed of Variation dated 26 August 1986
- "*How the Acting Chairperson of the Tribunal can prove the Fraud*"

Australia's Worst White-Collar Crime

How the Acting Chairperson of the Superannuation Complaints Tribunal can prove the Fraud

This document has been prepared to demonstrate how Ms Jocelyn Furlan, the Acting Chairperson of the **Superannuation Complaints Tribunal**, can prove how widows were defrauded out of their survivorship pension and how former employees of Elders IXL Limited and subsidiary companies received only a token retrenchment or retirement benefit after decades of loyal service

23 December 2014

Evidence Provided to the Tribunal

The following documents have been included in evidence provided to the Tribunal:

- (i) A copy of a consolidation Deed of Variation dated 6 May 1958, and
- (ii) A copy of a purported Deed of Variation dated 26 August 1986.

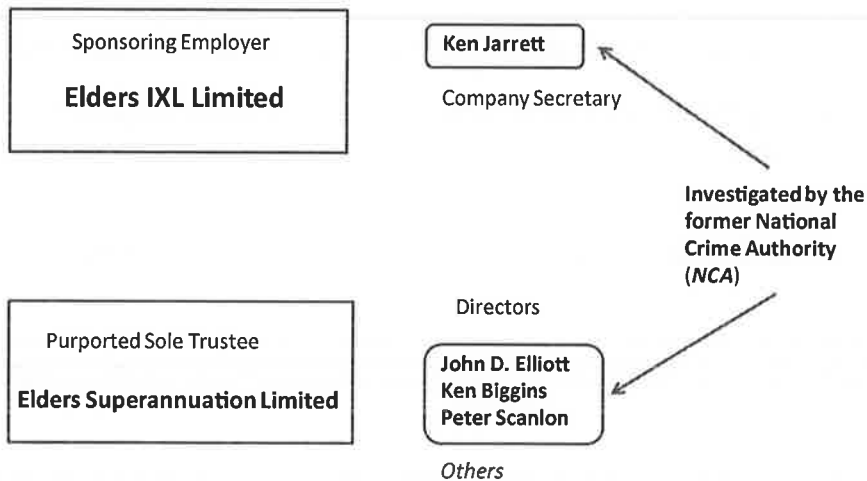
It should be noted that **Responsible Persons** of the purported corporate Trustee, criminally concealed the consolidation Deed of Variation dated 6 May 1958 from the *cestuis que trust* (ie members and beneficiaries) and that a copy of this important Deed was obtained with the assistance of the Deputy Premier and Attorney-General of South Australia, the Hon John Rau MP.

The former Fund Secretary, Ms Margaret O'Halloran, represented the purported Deed of Variation dated 26 August 1986 as the "**Trust Deed**" of the trust, when the legitimate "**Trust Deed**" that established the occupational pension trust was made on the 23 December 1913.

The 1913 Trust Deed was drafted by Sir John Downer who also co-drafted the **Australian Constitution**.

The parties to the document dated 26 August 1986 are as follows:

Parties to the 1986 Deed



The purported corporate Trustee that was a party to the "**Jarrett Deed**" had an "**all-star cast**" of Directors who had been the subject of two major investigations by the former **National Crime Authority** (NCA).

The **National Crime Authority** was replaced by the **Australian Crime Commission**.

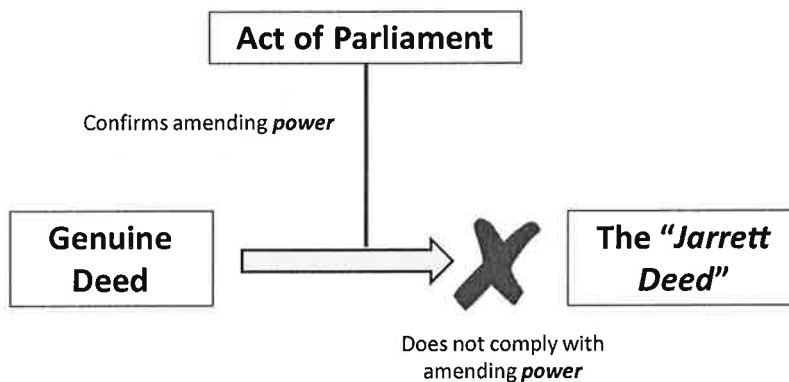
Mr Jarrett served a term of imprisonment for dishonesty, following the investigation known as **Operation Albert**.

The document dated 26 August 1986 should have been a **"Red Flag"** document to any investigative agency.

Proving the Fraud

The fraud can be proven using just two documents and an Act of the Parliament of South Australia.

Proving the Fraud



The Act of Parliament is the **Elder Smith & Co Limited Provident Funds Act 1963** (SA).

Why was this Act of Parliament necessary?

Refer to **The Laws of Australia** {Thompson Reuters} at [15.14.1450] under the section **"It is the trustee's plainest duty to obey the terms of the trust"** the following is stated:

"Where the trust instrument confers a power of amendment, the conditions and restrictions imposed on its exercise must themselves be strictly observed."

The Act of Parliament confirms this principle of trust law. The **Power of Amendment** provided by the original Trust Deed prohibited the application of the funds of the trust to unauthorised purposes. Therefore the holder of the **Power of Amendment**, the Board of the sponsoring Employer, could not amend the terms of the trust to allow benefits to be paid to employees of the new company that had acquired the original sponsoring employer.

Therefore an Act of Parliament was required to amend the terms of the trust, that was otherwise prohibited by the ***Power of Amendment*** contained in **Regulation 50**.

Examples of where the Courts have applied this principle of trust law are listed in **Appendix A**.

Judicial statements of the exercise of ***powers*** by trustees are listed in **Appendix B**.

Trustees are not "***free to do anything they like***" as falsely represented by Mr Warren Day of **ASIC**.

Here are the steps that the Acting Chairperson needs to take in order to prove ***Australia's Worst White-Collar Crime***:

Step 1

Go to **Regulation 50** in the consolidation Deed of Variation dated 6 May 1958 {Refer to **Appendix A**}.

Regulation 50 provides the ***Power of Amendment***.

Note how it is a condition imposed by the amending power {**Regulation 50**} that a majority of the Directors of the sponsoring Employer must execute any Deed of Variation.

This condition cannot be ignored as confirmed by the ***Elder Smith & Co Limited Provident Funds Act 1963***(SA).

Step 2

Go to the *testimonium* (execution clause) of the 1958 Deed of Variation {**Exhibit B**} and note how a majority of the Directors have executed this Deed. In fact all the Directors in 1958 executed this Deed.

Step 3

Go to the *testimonium* (execution clause) of the purported 1986 Deed of Variation {**Exhibit C**} and count how many Directors of the sponsoring Employer have executed this Deed.

Step 4

Refer to the number of Directors required to constitute a majority in 1986 {**Exhibit D**}.

The Fraud is Proven

By counting the number of Directors' signatures, Ms Jocelyn Furlan, the Acting Chairperson of the Superannuation Complaints Tribunal, can prove ***Australia's Worst White-Collar Crime***, committed by a well known white-collar criminal and his associates.

How difficult is that?

Mr Jarrett served a term of imprisonment for dishonesty.

The "**Jarrett Deed**" is void *ab initio* and the terms of the trust {**Regulations of the Fund**} were not amended by the "**Jarrett Deed**" or any instrument executed after the "**Jarrett Deed**".

The right of a widow to receive a survivorship pension was not abrogated by the "**Jarrett Deed**" and a token lump sum benefit did not replace the entitlement to a pension for life for qualifying male officers.

Next Steps for the Tribunal

The Superannuation Complaints Tribunal is an agency established under Chapter II of the **Commonwealth of Australia Constitution Act**.

Due to the **Separation of Powers** doctrine derived by the High Court of Australia from the Australian Constitution the Tribunal cannot act with **Judicial Power** and make a determination with respect to a complaint alleging the contravention of "**any law of governing rule**".

Only a **Chapter III Court** can exercise "**Judicial Power**."

The Tribunal Chairperson (or Acting Chairperson) is under a statutory duty however to give particulars of such an alleged or suspected contravention to **ASIC, APRA** or both pursuant to **Section 64** of the **Superannuation (Resolution of Complaints) Act 1993**

Reference by Tribunal Chairperson of contraventions of the law or of the governing rules of a fund to **APRA** or **ASIC** or both

If, in connection with a complaint made to the Tribunal under this Act, a Tribunal member **becomes aware** that a contravention of **any law or of the governing rules** of a fund **may** have occurred, the Tribunal member:

(a) if he or she is not the Tribunal Chairperson--**must** give particulars of the contravention to the Tribunal Chairperson; or

(b) if he or she is the Tribunal Chairperson:

(i) in the case of a contravention of a law that is administered by **APRA**-- must give particulars of the contravention to **APRA** and, if he or she thinks it appropriate to do so, may also give particulars of the contravention to **ASIC**; or

(ii) in any other case--**must** give particulars of the contravention to **ASIC** and, if he or she thinks it appropriate to do so, may also give particulars of the contravention to **APRA**.

The Acting Chairperson **MUST** now give particulars of **Australia's Worst White-Collar crime** to **APRA, ASIC** or both.

Section 64 does not prescribe the manner in which the Tribunal **becomes aware** of the "**contravention of any law or of the governing rules of a fund**" that **MAY** have occurred. The statutory requirement is simply that a Tribunal Member or the Chairperson "**becomes aware**" of the matter.

Exhibit A

Regulation 50

Referenced by the *Elder Smith & Co Limited Provident Funds Act 1963 (SA)*

ALTERATION OF DEED	
Alterations of Deed.	<p>50. No alteration to this Deed may be made which may authorise the application or use of any part of the Fund for any purpose other than—</p> <ul style="list-style-type: none">(a) The provision of pensions and benefits for officers their wives widows or dependants;(b) The making of any refund or allowance to officers;(c) The payment of the expenses arising out of the management control administration or protection of the Fund;(d) Indemnity to the Trustees as hereinafter provided;(e) Reimbursement to the Company of any losses of the nature herein specified. <p>But subject to this provision the Board by a majority of all the Directors for the time being testified by their executing the Deed hereinafter mentioned may from time to time and at any time by deed with the assent in writing of the majority of the Trustees alter all or any of the provisions of this Deed (including the provisions for the appointment and retirement voluntary or compulsory of the Trustees) and may make new provisions to the exclusion of or in addition to all or any of the provisions of this Deed and shall by such deed declare the time retrospectively or otherwise when such alterations or new provisions shall come into force. Such alterations and new provisions shall be deemed to be provisions in relation to the Fund of the same validity as if they had been originally contained in this Deed and shall be subject in like manner to be added to altered or modified. The provisions of this Deed and of any future deed are and shall be and shall be deemed to be regulations in relation to the Fund.</p>

Exhibit B

The *testimonium* (execution clause) of the 1958 consolidation Deed of Variation

sixth day of *May* One thousand nine hundred and fifty-eight.

SIGNED SEALED AND DELIVERED by the said ALEXANDER JOHN MELROSE in the presence of: *J.E. Dobbs*

Alex. J. Melrose

SIGNED SEALED AND DELIVERED by the said COLLIER ROBERT CUDMORE in the presence of: *J.E. Dobbs*

R. Cudmore

SIGNED SEALED AND DELIVERED by the said FREDERICK LLOYD DUMAS in the presence of: *Rhoda Poylase*

F. L. Dumas

SIGNED SEALED AND DELIVERED by the said TOM ELDER BARR SMITH in the presence of: *J.E. Dobbs*

Tom E. Barr Smith

SIGNED SEALED AND DELIVERED by the said IAN RICHARD McTAGGART in the presence of: *J.E. Dobbs*

I. R. McTaggart

SIGNED SEALED AND DELIVERED by the said ALFRED MOXON SIMPSON in the presence of: *J.E. Dobbs*

A. M. Simpson

SIGNED SEALED AND DELIVERED by the said HENRY NORMAN GILES in the presence of: *J.E. Dobbs*

H. N. Giles

SIGNED SEALED AND DELIVERED by the said NORMAN SMITH YOUNG in the presence of: *J.E. Dobbs*

N. S. Young

SIGNED SEALED AND DELIVERED by the said ALEXANDER JOHN MELROSE in the presence of: *J.E. Dobbs*

Alex. J. Melrose

SIGNED SEALED AND DELIVERED by the said FREDERICK LLOYD DUMAS in the presence of: *Rhoda Poylase*

F. L. Dumas

SIGNED SEALED AND DELIVERED by the said TOM ELDER BARR SMITH in the presence of: *J.E. Dobbs*

Tom E. Barr Smith

SIGNED SEALED AND DELIVERED by the said REGINALD WALTER SREDSMAN in the presence of: *J.E. Dobbs*

R. W. Sredman

Exhibit C

The *testimonium* (execution clause) of the purported 1986 Deed of Variation

- 3 -

THE COMMON SEAL of ELDERS)
IXL LIMITED was hereunto)
affixed in accordance with)
its Articles of Association)
in the presence of:)

:Director

:Secretary



K.C. Smith
A. J. J. J. J.

THE COMMON SEAL of ELDERS)
SUPERANNUATION LTD. was)
hereunto affixed in)
accordance with its Articles)
of Association in the)
presence of:)

:Director

:Secretary



R. C. J. J.
W. J. J. J.

Exhibit D

Directors of Elders IXL Limited

<u>Executive Directors</u>		<u>Director Since</u>	<u>30-Jun-86</u>	<u>30-Jun-87</u>
J.D. Elliott	#1	27-Nov-81	Chairman	Chairman
K.C. Jarrett	#2	1984	Director	Director
K.R. Biggins	#1	1986		Director
P.D. Scanlon	#1	27-Nov-81	Director	Director
G.F. Lord		1983	Director	Director
P.T. Bartels		1985	Director	Director
M.R. Nugent		1983	Director	Director
 <u>Independent Directors</u>				
J.M. Ballieu		27-Nov-81	Dep Chairman	Dep Chairman
E.A. Burton		27-Nov-81	Director	Director
D.I. Darling		27-Nov-81	Director	Director
S.B. Myer		27-Nov-81	Director	Director
G.M. Niall		1953	Director	Director
A.G. McGregor		1979	Director	Director
I.M. McLachlan		1980	Director	Director
O.R. Gunn		1984	Director	Director
J. Ralph		1984	Director	
The Hon Sir Edwin Williams		1984	Director	Director
B.T. Lotton		1986	Director	Director
<hr/>				
Total Number of Directors			17	17

Notes

(#1) Charged by the former *National Crime Authority* (NCA)

(#2) Charges dropped after turning Crown Witness and pleading guilty to lesser charges

Appendix A

Cases where the Courts have declared purported Amending Instruments Invalid

- *Briggs v Gleeds (Head Office)* [2014] EWCH 1178 (Ch)
- *Walker Morris Trustees Ltd. v Masterson & Anor* [2009] EWHC 1955 (Ch)
- *Sovereign Trustees Ltd & Anor v Glover & Ors* [2007] EWHC 1750 (Ch)
- *Trustee Solutions Ltd & Ors v Dubery & Anor* [2006] EWHC 1426 (Ch)
- *Meier v Dorzan Pty Limited & Anor* [2010] NSWSC 664
- *NSW MASONIC YOUTH PROPERTY TRUST & ANOR v HER MAJESTY'S ATTORNEY-GENERAL IN AND FOR THE STATE OF NSW & ANOR* [2009] NSWSC 1301
- *Hillcrest (Ilford) Pty Ltd v Kingsford (Ilford) Pty Ltd (No.2)* [2010] NSWSC 285
- *Re Cavill Hotels Pty Ltd* [1998] 1 Qd R 396.

Appendix B

Judicial Statements concerning the exercise of powers by Trustees

Lord Northington:

"No point is better established than that, a person having a power, must execute it bona fide for the end designed, otherwise it is corrupt and void."

Aleyn v Belchier (1758) 1 Eden 132, at p. 138; [1758] EngR 208; 28 E.R. 634, at p. 637.

Cited by Dixon J in *Mills v Mills* [1938] HCA 4; (1938) 60 CLR 150

Millett J

"It is trite law that a power can be exercised only for the purpose for which it is conferred, and not for any extraneous or ulterior purpose"

Re Courage Group's Pension Schemes Ryan and others v Imperial Brewing and Leisure Ltd and others [1997] 1 All ER 528 at 537(e) ; [1987] 1 WLR 495 at 505(e).

Gordon Jackson (Glasgow Govan), *Subordinate Legislation Committee Official Report* #31, October 2006.

Trite law is law that, if you do not know it, you should. It is like saying that two and two is four. For example, there is a presumption of innocence in Scotland. That is trite law—something that everybody knows."

Henderson J

"First, it is trite law that a power conferred on a trustee (or any person other than a beneficial owner) may be exercised only for the purposes for which it was granted, and not for purposes foreign to the power or to secure a collateral benefit".

Independent Trustee Services Ltd v Hope [2009] EWCH 2810 (Ch) at [93].

Rich J

"It is not the purpose of the provision to enable the destruction of any substantive right to pensions, and an exercise such is apprehended would be not unlike a fraud on a power"

Metropolitan Gas Co v FCT [1932] HCA 58; 47 CLR 621 at 635.

"As Hammond J stated, in ***Wong v Burt*** [2004] NZCA 174, [27]: *"The notion of a fraud on a power itself rests on the fundamental juristic principle that any form of authority may only be exercised for the purposes conferred, and in accordance with its terms."*

Any power, including a non-fiduciary power, must be exercised *"in good faith"* in the sense that its exercise must not be excessive or fraudulent; It must be exercised, if at all, only for the purposes for which it was created {***Thomas on Powers*** (1st Edition) 5-163}.

Compensation for Breach of Trust

"The basic right of a beneficiary is to have the trust duly administered in accordance with the provisions of the trust instrument, if any, and the general law"

- Lord Browne-Wilkinson (***Target Holdings and Redferns*** [1995] UKHL 10)

“The basic equitable principle applicable to breach of trust is that the beneficiary is entitled to be compensated for any loss he would not have suffered but for the breach.”

- Lord Browne-Wilkinson (*Target Holdings and Redferns* [1995] UKHL 10)

In the case of a superannuation fund, the “***trust instrument***” is the original trust deed that established the trust as lawfully amended in accordance with any conditions and restrictions imposed by the ***Power of Amendment*** in the trust deed.

STAMP
\$10

THIS DEED is dated the 26th day of August 1986

BETWEEN ELDERS IXL LIMITED the registered office of which is situated at 27 Currie Street Adelaide in the State of South Australia (hereinafter called "the Principal Employer")

AND ELDERS SUPERANNUATION LTD. the registered office of which is situated at 351 Collins Street Melbourne in the State of Victoria (hereinafter called "the Trustee")

WHEREAS:

- A. By a Deed made the 23rd day of December 1913 a Company known as Elder Smith & Co. Limited established a provident and guarantee fund which is now known as the Elders IXL Superannuation Fund (hereinafter called "the Fund").
- B. Pursuant to the provisions of the Elder, Smith & Co. Limited Provident Funds Act 1963 and to a Deed dated the 5th day of March 1964, Elder Smith Goldbrough Mort Limited assumed the obligations of Elder, Smith & Co. Limited in relation to the Fund as the Principal Employer under the Rules relating to the Fund then in force.
- C. On the 3rd day of February 1982 Elders Smith Goldsbrough Mort Limited changed its name to Elders IXL Limited.
- D. On the 20th day of December 1982 the Trustee was appointed sole trustee of the Fund and the Trustee is the trustee for the time being of the Fund.
- E. The Fund is governed and administered in accordance with rules or regulations which were originally adopted by the said Deed made the 23rd day of December 1913.
- F. The Rules set out in the schedule hereto are the Rules relating to the Fund which are in force as at the date hereof and the

Principal Employer and the Trustee desire to confirm the Rules accordingly.

NOW THIS DEED WITNESSES that the Principal Employer and the Trustee HEREBY CONFIRM that the Rules set out in the Schedule hereto are the Rules governing the administration of the Fund in force as at the date hereof and each of them covenant with the other to observe and perform the obligations imposed on them respectively by the Rules.

IN WITNESS whereof this Deed was executed on the day and year first hereinbefore written.

THE COMMON SEAL of ELDERS)
IXL LIMITED was hereunto)
affixed in accordance with)
its Articles of Association)
in the presence of:)



:Director

[Handwritten signature]

:Secretary

[Handwritten signature]

THE COMMON SEAL of ELDERS)
SUPERANNUATION LTD. was)
hereunto affixed in)
accordance with its Articles)
of Association in the)
presence of:)



:Director

[Handwritten signature]

:Secretary

[Handwritten signature]

ELDERS IXL LIMITED

AND

ELDERS SUPERANNUATION LTD.

D E E D

ARTHUR ROBINSON & HEDDERWICKS,
SOLICITORS,
535 BOURKE STREET,
MELBOURNE VIC 3000

TEL: 614 1011 REF: MNC

ELDERS IXL SUPERANNUATION FUND

RULES

MELBOURNE
19 AUGUST 1985

ELDERS IXL SUPERANNUATION FUND

RULES

	<u>PAGE</u>	
<u>DIVISION 1 - MANAGEMENT AND ADMINISTRATION</u>		
1.1	Definitions and Governing Principles	1
1.2	Constitution of the Fund	6
1.3	Trustee	7
1.4	Appointment to Offices	11
1.5	Records and Financial Statements	12
1.6	Actuarial Investigations	14
1.7	Investments	15
1.8	Membership	17
1.9	General Provisions Relating to Contributions and Expenses	19
1.10	General Provision Relating to Benefits	21
1.11	Admission of Participating Employers	28
1.12	Termination or Suspension of Contributions or Reconstruction of the Principal Employer	29
1.13	Alteration of the Rules	32

DIVISION 2 - BENEFITS AND CONTRIBUTIONS

2.1	General Provisions	34
2.2	Contributions	35
2.3	Benefits	35
2.4	Additional Voluntary Contributions	37
Table 1	Member's Reserve Factors	39
Table 2	Early Retirement Factors	40
Table 3	Resignation Benefit Factors	41

DIVISION 1

MANAGEMENT AND ADMINISTRATION

1.1 DEFINITIONS AND GOVERNING PRINCIPLES

1.1.1 Definitions. In these Rules unless the context otherwise requires:

"Actuary" means the actuary for the time being appointed pursuant to Rule 1.4.1 a).

"Administrator" means the administrator for the time being appointed pursuant to Rule 1.4.1 a).

"Associated Employer" means a company, firm, partnership or other organisation allied or associated in business with the Principal Employer and which the Principal Employer has declared in writing to the Trustee to be an Associated Employer and has not subsequently declared in writing to the Trustee that it has ceased to be an Associated Employer.

"Auditor" means the auditor for the time being appointed pursuant to Rule 1.4.1 a).

"Beneficiary" means a person presently and absolutely entitled to receive a Benefit at the relevant time but does not include a person who is a Member at the said time.

"Benefit" means any amount paid or payable by the Trustee out of the Fund pursuant to the Rules to or in respect of a Member.

"Child" in relation to a Member means any child born of that Member and includes a step-child or legally adopted child of that Member and any person who, in the opinion of the Trustee, is or was actually maintained by the Member as his child.

"Contributions" means payments to the Fund by Members and Employers pursuant to the Rules.

"Deed" means the Deed dated the 23rd day of December 1913 as amended from time to time under which the Fund was established.

"Dependant" in relation to a former Member means :

- i) the wife or husband of a former Member or the widow or widower of a deceased Member;

- ii) any Child of a former Member;
- iii) any other person who, in the opinion of the Trustee, is or was substantially financially dependent on the former Member at the relevant time or who had a legal right to look to the former Member for support.

"Directors" means the directors or board of management for the time being of an Employer or, as the case requires, of the Trustee, and "Director" has a corresponding meaning.

"Division" means any Division of the Rules that may be established from time to time, as the case requires.

"Eligible Employee" means an Employee who is in a class of Employees nominated by the Principal Employer as being eligible to become Members.

"Employee" means a person in the employment of an Employer and who is :

- i) a Director of that Employer; or
- ii) classified by his Employer as a permanent employee;

and includes any person as aforesaid on Special Leave.

"Employer" means the Principal Employer or any Participating Employer and in relation to an Employee or Member means the Employer for the time being of such Employee or Member.

"Fund" means the Elders IXL Superannuation Fund (formerly the Provident Fund) established under the Deed and shall include all accretions thereto and the assets comprised therein.

"Fund Year" means a period of twelve months ending on the thirtieth day of June, or such other period or date as the Trustee from time to time may determine.

"Income Tax Act" means the Income Tax Assessment Act 1936 of the Commonwealth of Australia.

"Member" means an Eligible Employee who has been accepted by the Trustee as a Member of the Fund and in respect of whom his Employer makes Contributions.

"Member's Reserve" in relation to a Member means the Member's Reserve calculated pursuant to Rule 2.1.2.

"Participating Employer" means any Associated Employer that by agreement with the Principal Employer and the Trustee enters into a covenant with them to observe and perform the provisions of the Rules but does not include an Employer which has ceased to be a Participating Employer.

"Pension" means a Benefit payable at a yearly rate by instalments, and "Pensioner" means a person receiving a Pension.

"Principal Employer" means Elders IXL Limited or any company carrying on business in succession thereto in amalgamation therewith which agrees to assume the obligations of the Principal Employer under the Deed and the Rules.

"Register" means the register maintained by the Trustee as part of the Rules into which is entered the rights and entitlements of Members and Beneficiaries whose rights or entitlements are or were affected by a resolution of the Trustees made the nineteenth day of August 1985 and the rights and entitlements of persons who transfer to the Fund and in respect of whom additional or accrued Benefits are granted pursuant to Rule 1.8.2 and such other information and details concerning Members and Beneficiaries or any of them as the Trustee may from time to time determine.

"Roll-over Institution" means a Roll-over Institution defined pursuant to Rule 1.10.1 d).

"Rules" means the rules governing the Fund from time to time together with any alterations thereto or substitutions therefor and for the time being in force.

"Salary" means in relation to any Member the yearly rate of remuneration advised by his Employer for the purpose of determining Benefit payments and Contributions under the Rules excluding, unless the Principal Employer otherwise directs, any overtime, director's fees, special grants, allowances, or other amounts, provided that if a Member's remuneration is reduced and the Employer determines not to take the reduction into account and informs the Trustee, and if the Member agrees, the Salary shall be deemed to be the Salary applicable immediately prior to the reduction until such time as his actual yearly rate of remuneration exceeds the Salary applicable immediately prior to the reduction.

"Service" in respect of a Member means the latest continuous period during which he has been in the service of any one or more of the Employers and includes any period during which he is on Special Leave.

"Special Leave" means any period of temporary absence of a Member from his employment (other than as a normal condition of employment) with or without pay and given with the approval of his Employer, provided that the Member has not voluntarily terminated his employment nor been dismissed by the Employer.

"Taxation" includes income tax, land tax, stamp duty and any other tax or duty.

"Total and Permanent Disablement" in relation to a Member means having been absent from employment with the Employer through injury or illness for six (6) consecutive months, or such lesser period as determined by the Trustee and, in the opinion of the Trustee after consideration of medical evidence having become incapacitated to such an extent as to render the Member unlikely ever to engage in

or work for reward in any occupation or work for which he is reasonably qualified by his education training or experience provided that a Member shall be deemed to be Totally and Permanently Disabled if he has suffered the loss of two limbs or the sight of both eyes or the loss of one limb and the sight of one eye where "limb" means the whole hand or the whole foot.

"Trustee" means the Trustee or Trustees for the time being of the Fund. 1.1.2 Plural and gender of words. In the Rules, unless inconsistent with the subject matter or context, words importing one gender shall include the other genders and words importing the singular number shall include the plural number and vice versa.

- 1.1.3 Headings to Rules. The headings in the Rules are for convenience and reference only and shall not affect their interpretation.
- 1.1.4 Defined words. For convenience, the first letters of words and expressions defined in the Rules are indicated by capital letters, but the absence of a capital letter shall not alone imply that the word or phrase is used with a meaning different from that given by its definition.
- 1.1.5 Employer's powers not prejudiced. Nothing in the Rules shall affect the powers of an Employer with regard to the remuneration, terms of employment or dismissal of an Employee or any other dealings between the Employer and Employee.
- 1.1.6 Benefits not ground for increasing any claim for damages. The Benefits to which a Member might claim to be entitled under the Rules shall not be used as grounds for increasing or as a means of assessing damages in any claim made or action brought by a Member against an Employer.
- 1.1.7 Exercise of Employer's rights. All powers, rights, decisions, discretions, appointments and other authorisations of whatsoever nature or kind granted to or conferred on an Employer or the Trustee by, under or for the purposes of the Rules may be fully and effectively exercised, made, done or performed for or on behalf of such Employer or Trustee by resolution of its Directors or by any person or persons having the written authorisation of such Directors to so act on their behalf.
- 1.1.8 Rules governed by State Laws. The Rules shall be governed and construed and shall take effect in accordance with the laws of the State of Victoria. The Employer, the Trustee, Members and Beneficiaries shall accept the jurisdiction of the Courts of that State.
- 1.1.9 Arbitration. If any question or dispute shall arise with respect to the Fund or to the construction or meaning of the Rules, then the question or dispute shall be referred to a single arbitrator agreed to by the parties in dispute, or if they are unable to agree, then a single arbitrator appointed by the president for the time being of the Australian Institute of Arbitrators; and the Trustee and the Principal Employer hereby expressly agree that if a question or dispute is referred to arbitration pursuant to this Rule then all parties shall be entitled to legal representation.

- 1.1.10 Statutory enactments. References to any statutory enactment shall be construed as references to that enactment as amended, modified or re-enacted from time to time.
- 1.1.11 Other Divisions subject to Division 1. The provisions of Divisions other than Division 1, unless the context otherwise requires, shall be subject to the provisions of this Division 1.

1.2 CONSTITUTION OF THE FUND

1.2.1 Moneys payable to Fund. The Fund shall consist of all the cash, investments and other property for the time being held by or on account of the Trustee upon the trusts of the Rules and shall be separately established and separately maintained by :

- a) the amount, if any, standing or transferred to the credit of the Fund at or after the date from which these Rules come into effect;
- b) contributions by Members;
- c) contributions by Employers;
- d) interest and dividends arising from any investment and the accumulation thereof;
- e) profits (less losses) and other benefits arising from any investment and the accumulation thereof; and
- f) moneys, investments and other property transferred to the Fund from any other superannuation arrangement.

1.2.2 Accounts of the Fund. For the purposes of managing, administering and applying the Fund, the Trustee shall, if it sees fit, be empowered to :

- a) establish and maintain separate parts of the Fund for the purpose of distinguishing between different classes or groups of Members and or Beneficiaries;
- b) establish and maintain separate accounts and or investments in respect of any part of the Fund; and
- c) transfer assets between parts of the Fund as the Trustee may determine.

1.3 TRUSTEE

- 1.3.1 a) Fund vested in Trustee. The Fund shall be vested in the Trustee upon the terms and conditions and subject to the trusts, powers, authorities and discretions contained in the Rules and shall be managed, administered and applied by it in accordance with the provisions of the Rules.
- b) Number of Trustees. A company appointed by the Principal Employer as Trustee may, with the approval of the Principal Employer, act by itself as the Trustee of the Fund. If there is at least one natural person acting as Trustee, then there shall be not less than four Trustees. Otherwise, there may be such other number of Trustees as the Principal Employer may determine from time to time.
- c) Removal and appointment of Trustee. Subject to Rule 1.3.1 b), the Principal Employer shall have the right to remove any Trustee and to appoint a company or one or more persons to act as Trustee or Trustees either in place of any company or person who has ceased to be a Trustee or as an additional Trustee. Such removal or appointment shall be in writing and shall take effect one month after the date of the notice unless the Principal Employer and the Trustee shall agree in writing upon shorter notice. The Principal Employer shall forthwith give notice of removal of a Trustee to any other Trustee.
- d) Vacancy in office. The office of a Trustee shall become vacant and a Trustee shall cease to be a Trustee if it or he :
- i) is removed from office by the Principal Employer,
 - ii) resigns his office by notice in writing to the Principal Employer,
 - iii) is disqualified from office by operation of law,
 - iv) being a natural person, becomes bankrupt or suspends payment or compounds with his creditors, dies, is found to be lunatic or of unsound mind or, in the opinion of two legally qualified medical practitioners, is or is found to be incapable of managing his own affairs, or
 - v) being a company, is wound up.
- e) Continuity of office. A Trustee, on ceasing to be a Trustee pursuant Rule 1.3.1 d), shall do everything necessary to vest the Fund in the remaining or new Trustee and shall deliver all records and other books held by such Trustee in relation to the Fund to the remaining or new Trustee.
- f) Principal Employer to act as Trustee. The Principal Employer shall endeavour to keep the office of Trustee filled at all times but if, for any period, there is no Trustee, the duties of the Trustee shall be performed by the Principal Employer.

- g) Conduct of meetings. At any time during which there is more than one Trustee, the following provisions shall apply:
- 1) The Trustees may meet together for the despatch of business adjourn and otherwise regulate their meetings as they think fit. A Trustee may at any time convene a meeting. All meetings shall be held at the Head Office of the Principal Employer unless the Trustees or a majority of them shall otherwise determine.
 - 2) The Principal Employer shall appoint one of the Trustees to be Chairman of the Trustees and may at any time remove the Chairman from such office and appoint another of the Trustees to be Chairman in his place. If at any time there is no Chairman in office or if at any meeting the Chairman is not present at the time appointed for holding the same, the Trustees present shall choose one of their number to be Chairman of such meeting.
 - 3) Questions arising at any meeting shall be decided by a majority of votes. The Chairman shall have a deliberative vote and in any case of an equality of votes a second or casting vote.
 - 4) At any meeting of the Trustees four Trustees shall form a quorum. Any meeting at which a quorum is present shall be competent to exercise all or any of the authorities powers and discretions hereby vested in the Trustees generally.

1.3.2 Powers of Trustee. In addition to the powers which it might by law have and which are otherwise granted to it by the Rules, the Trustee shall have the following powers :

- a) to settle, compromise or submit to arbitration any claims, matters or things relating to the Rules or to the rights of Members, former Members and Beneficiaries;
- b) to commence, carry on or defend proceedings relating to the Fund or to the rights of Members, former Members and Beneficiaries;
- c) to borrow money and to secure the repayment thereof in any manner and upon any terms which the Trustee may deem advisable and whether by charge on all or any portion of the Fund or otherwise;
- d) to insure or reinsure any risks, contingencies or liabilities of the Fund with an insurance company, mortgage insurance company, reinsurance company or superannuation fund;
- e) to underwrite or sub-underwrite any risks, contingencies or liabilities under any superannuation arrangement conducted by an Associated Employer where there exists the possibility of transfers of employees to the Fund;

- f) subject to the approval of the Principal Employer, to retain the services of professional or other advisers in relation to the management, administration or investment of the Fund and to pay and advance out of the Fund all expenses of and incidental to the management and administration of the Fund including the fees of the aforesaid advisers and the remuneration of persons appointed pursuant to the Rules;
- g) to indemnify, or undertake to indemnify, any person, company, government or institution in respect of any claims, matters or things relating to the Fund or to the rights of Members, former Members or Beneficiaries in respect of the Fund;
- h) to authorise any Director or officer of the Trustee to exercise for or on behalf of the Trustee all or any of the powers and authorities exercisable by the Trustee under the provisions of the Rules;
- i) to manage land and property investments forming part of the Fund and, in particular, erect alter remove or pull down any buildings walls fences drains and other improvements, pay all rates taxes and other outgoings and effect and maintain insurances, carry out repairs painting and other acts of preservation, lease sell and otherwise dispose the said land and property and generally exercise such acts of management or ownership as may be required from time to time; and
- j) generally to do all acts and things as the Trustee may consider necessary or expedient for the administration, maintenance and preservation of the Fund and in performance of its obligations under the Rules.

1.3.3 Remuneration of Trustee. The Trustee is not entitled to receive from the Fund commission or other remuneration in respect of its office, but the Principal Employer may if it thinks fit at any time and from time to time in its sole unfettered discretion pay to the Trustee any remuneration it thinks fit.

1.3.4 Indemnity of Trustee. The Trustee shall be indemnified out of the Fund against all liabilities incurred by it in the exercise or attempted exercise of the trusts, powers, authorities and discretions vested in it and shall have a lien on and may use moneys forming part of the Fund in pursuance of this indemnity.

This indemnity shall extend to any payments made to any persons whom the Trustee bona fide believes to be entitled thereto although it may be subsequently found that the person was not in fact entitled to the same or all of the same.

No Trustee shall be liable for anything done or omitted to be done except in the case of fraud or other wilful misconduct on his or its part.

- 1.3.5 Confidentiality of information. The Trustee, the Principal Employer and every other Employer, shall regard as strictly confidential (so far as shall be practicable) all information disclosed to or gained by it in the course of administering the Fund or otherwise in connection with the Rules or anything relating or incidental thereto.
- 1.3.6 Appointment of nominee company. The Trustee may appoint in writing on such terms as it may see fit any corporate body as its nominee in regard to the purchase, sale, administration or retention of and the dealing in any investments whether in the name of that corporate body or otherwise, and give any indemnity reasonably required, provided that the corporate body undertakes in writing to hold the investments made from the moneys of the Fund in its name as nominee for and on behalf of the Trustee. The Trustee may revoke or vary any such appointment.

1.4 APPOINTMENT TO OFFICES

- 1.4.1 a) Appointment of Actuary Administrator and Auditor. The Trustee from time to time, with the approval of the Principal Employer, may appoint to the following offices on such conditions as it determines :
- i) an Actuary who is either -
 - ia) a person who is a Fellow of the Institute of Actuaries of Australia;
 - ib) a firm of which each Australian partner is a Fellow of the Institute of Actuaries of Australia; or
 - ic) a company with at least one employee who is a Fellow of the Institute of Actuaries of Australia.
 - ii) an Administrator;
 - iii) an Auditor, who is either a person or a firm registered as a company auditor under the Companies Act 1961, provided that a Trustee hereof or a director of a company which is a Trustee hereof shall not be appointed as Auditor; and
 - iv) such other officers as it considers desirable for the proper management of the Fund.
- b) Removal from office. The Trustee may remove from office any person firm or company appointed pursuant to this Rule and with the approval of the Principal Employer, may appoint another in his stead.
- c) Offices to be kept filled. The Trustee shall use its best endeavours to ensure that none of the offices mentioned in paragraphs i) to iii) inclusive of Rule 1.4.1 a) remains vacant for longer than is necessary to effect a new appointment.
- d) Deemed to be employed by the Principal Employer. Any person appointed as a full-time officer pursuant to this Rule may, if the Trustee so recommends and the Principal Employer agrees, be deemed, for the purposes of the Rules, to be employed by the Principal Employer.

1.5 RECORDS AND FINANCIAL STATEMENTS

- 1.5.1 a) Receipt and payment of moneys. All moneys of the Fund shall be lodged as soon as practicable to the credit of an account in the name of the Fund kept with a bank, building society or similar body determined from time to time by the Trustee or the like account of an investment manager appointed pursuant to the Rules.

All cash payments out of the Fund shall be signed by at least two (2) persons who shall from time to time be authorised in writing by the Trustee or the Administrator for that purpose.

- b) Issue of receipts. A receipt given on behalf of the Fund by the Trustee or by the Administrator or by any other person who may from time to time be authorised by the Trustee in writing to receive any moneys of the Fund shall be a sufficient discharge to the person by whom the moneys are paid.

- 1.5.2 Records and accounts to be kept. The Trustee shall :

- a) keep account of all moneys received for and disbursed from the Fund and of all dealings in connection therewith;
- b) collect, and pay promptly into the bank account of the Fund, all moneys from time to time due to the Fund;
- c) keep appropriate records and accounts in proper order, and make suitable arrangements for their custody and for custody of documents relating to the investments; and
- d) prepare after the end of each Fund Year a balance sheet of the Fund as at the end of the said Fund Year, together with a statement of receipts and disbursements during the same Fund Year.

- 1.5.3 Annual accounts. Each balance sheet and statement as aforesaid, shall be audited by the Auditor, reported upon and signed by him and the Trustee and presented to the Principal Employer.

- 1.5.4 Audit. As at the end of each Fund Year, the Trustee shall ensure that the Auditor audits the books, accounts, each annual balance sheet and statement and the documents relating to the investments.

- 1.5.5 Copy of Rules and financial statements available to Members. A copy of the Rules and the latest annual balance sheet and statement shall be made available on request for inspection by any Member or Beneficiary.

- 1.5.6 Information to be supplied. An Employer shall, as and when requested by the Trustee, give to the Trustee all information in its power or possession which may in the opinion of the Trustee be necessary or expedient for the management and administration of the Fund. The Trustee may act upon and shall not be required to verify any information given to it by an Employer pursuant to the Rules.

1.5.7 Annual calculation of Fund's earning rate. The Trustee shall determine the effective rate of income earned on the assets of the Fund during each Fund Year.

1.6 ACTUARIAL INVESTIGATIONS

- 1.6.1 a) Actuarial investigations. As at a date not later than the 30th day of June 1987 and thereafter at intervals not exceeding three (3) years, the Trustee shall cause the Actuary to make an actuarial investigation of the Fund and to report in writing on the results of his investigation and on the state and sufficiency of the Fund, having regard to the present and future liabilities thereof and to make any recommendations which he may see fit in regard to the Fund.
- b) Information to be supplied to Actuary. The Trustee, the Administrator and the Employers shall give the Actuary the information he may require for the purposes of his investigations.
- c) Actuary's reports to Principal Employer. The Trustee shall send a copy of each report furnished by the Actuary to the Principal Employer.
- 1.6.2 Variation in Benefits or Contributions following surplus or deficit. Where the report by the Actuary in accordance with Rule 1.6.1 discloses that the Fund is more than or less than sufficient to provide the Benefits under the Rules, the Trustee, after obtaining the advise of the Actuary and subject to the consent of the Principal Employer, may, in a manner which in the opinion of the Trustee is equitable to all persons concerned, change;
- i) the Contributions payable by the Employers or by any one or more of them;
- ii) the Contributions payable by Members or by any section or class of Members; or
- iii) the amount of Benefits or any particular section or class of Benefits, including Benefits in the course of payment, either to Members or Beneficiaries generally or to any section or class of Members or Beneficiaries.

1.7 INVESTMENTS

- 1.7.1 a) Investments authorised. So much of the moneys forming part of the Fund from time to time as shall not be required immediately for the payment of Benefits or other amounts authorised by the Rules shall be invested as soon as practicable by and under the control and in the name of the Trustee in any manner or form which the Trustee considers to be an investment suitable for the Fund including without limitation any of the following:
- i) any investment for the time being authorised by the laws of the Commonwealth of Australia or any State or Territory thereof for the investment of trust funds;
 - ii) any mortgage of or charge on freehold or leasehold property situated anywhere in the world even though the amount of the loan may exceed two-thirds of the value of the property and whether or not a report has been obtained on the value of the property and even though the mortgage or charge shall not rank as a first charge on the property;
 - iii) on deposit with or loan to an Employer, any building society, company, or any other organisation whatsoever, or person established or operating anywhere in the world with or without security and at such rate of interest and upon such terms as the Trustee may deem expedient;
 - iv) the purchase or acquisition in any way of shares and stock (of any class or description) and of any type of bond, mortgage, debenture, note, option or other like security in or of an Employer, any building society or any company incorporated in any part of the world and whether or not carrying on business in Australia and whether the shares or stock be fully or partly paid up and whether secured or unsecured, registered or unregistered;
 - v) any mortgage of or charge on any personal property situated anywhere in the world;
 - vi) any policy of assurance or annuity contract whether by proposal, purchase or otherwise, and any choses in action, interests for life or any lesser terms or in reversion and howsoever arising;
 - vii) the purchase or acquisition of any real or personal property situated anywhere in the world and the improvement or extension thereof;
 - viii) the purchase or acquisition of any interests either jointly or in partnership or in any unit of interest including units or sub-units of any unit trust or mutual fund wheresoever situated;

- ix) discounting of loans, mortgages, contracts, hire purchase agreements or leases;

and it is expressly provided that neither the inclusion of paragraphs i) to ix) hereof nor anything in any of those paragraphs shall limit or be interpreted so as to limit the general unfettered discretion vested in the Trustee regarding investment generally and, in particular, what is an investment and whether that investment is a suitable investement.

Provided that the Trustee may only make an unsecured loan to a Member where he is unable to obtain finance from normal borrowing sources and the amount of the loan does not exceed the total of the Contributions made by the Member at the date of commencement of the loan.

- b) Underwriting. The Trustee may underwrite or sub-underwrite the issue of any investments authorised by the Rules.

1.7.2 Power to sell and vary investments. The Trustee shall have power as it sees fit to sell any investments and to vary and transpose any investments into others authorised by the Rules.

1.7.3 Appointment of investment manager. The Trustee may appoint one or more corporate bodies, persons or organisations (hereinafter referred to individually as a "Manager") in writing on such terms as it sees fit, and such terms shall include the fees to be charged by the Manager and the granting of any indemnity reasonably required, to act on behalf of the Trustee in regard to the purchase, sale, administration or retention of and the dealing in any or all of the investments of the Fund whether in the name of that Manager or otherwise, provided that the Manager undertakes in writing to hold the investments made from the moneys of the Fund in trust for and on behalf of the Trustee.

The Trustee may revoke or vary any such appointment subject to the terms of any agreement entered into by the Trustee with any such Manager.

1.7.4 Borrowing powers. The Trustee may at any time or from time to time, with the approval of the Principal Employer, borrow such sum or sums of money as shall in its opinion be necessary to borrow for the proper management or protection of the Fund or to enable the objects for which the Fund was established to be achieved provided that the requirements of this Rule shall not apply to borrowing where the same is the result of the bank account of the Fund becoming overdrawn from time to time and in the ordinary course of administering the Fund. Any such moneys may be borrowed either without security or upon mortgage or charge of or over any of the investments or other assets for the time being of the Fund and upon such terms and conditions as to time and method of repayment and otherwise and at such rate of interest as the Trustee with such approval as aforesaid shall determine.

1.8 MEMBERSHIP

1.8.1 New Members

- a) Application to join the Fund. An Eligible Employee who has completed at least six (6) months' Service with an Employer, or such lesser period as determined by the Principal Employer, may apply to join the Fund by:
- i) making written application in the form from time to time required by the Trustee;
 - ii) submitting evidence of his age and any evidence of the state of his health required by the Trustee;
 - iii) providing any other information reasonably required by the Trustee; and
 - iv) declaring in writing that on acceptance of his application he shall be bound by the terms and conditions of the Rules.
- b) Admission of applicants.

The Trustee shall consider each application and in its absolute discretion may refuse the application or may admit the Eligible Employee to the Fund.

Subject to any other conditions which may be applied pursuant to the Rules, the Trustee, after obtaining the advice of the Actuary, may impose conditions on an applicant's admission and his rights and duties as a Member and may limit and impose conditions upon Benefits as it sees fit. The Trustee may remove or vary at any time all or any of the aforesaid conditions.

Where an Employee is admitted to the Fund and the Benefits payable in any circumstance differ from those provided under the relevant Rules, the Trustee shall advise him in writing to this effect.

On admittance of the application by the Trustee, whether with or without conditions or limitations, the Eligible Employee shall become a Member and be deemed to have joined the Fund on a date determined by the Trustee. The Trustee shall ensure that the Member is notified in writing of his and his Dependants rights to receive Benefits under the Fund.

- 1.8.2 Admittance on transfer from another fund. Where an Employee who has been admitted to the Fund was a member of any other superannuation arrangement and :

- a) there is, or will be, paid or transferred to the Trustee for the credit of the Fund an amount equal to the whole or any part of the value of the Employee's interest in that other

superannuation arrangement, including the capital values of any life assurance policies or annuity contracts in respect of him or of any Dependant; or

- b) there is assigned and transferred absolutely to the Trustee as beneficial owners, any policy of life assurance or annuity contract in respect of him or of any Dependant;

the Trustee may obtain the advice of the Actuary and shall determine the value of such payment, assignment or transfer and shall provide the Member with additional or accrued Benefits in such manner as it shall determine. The Trustee shall record in the Register details of additional or accrued Benefits granted to the Member pursuant to this Rule.

- 1.8.3 Members and Beneficiaries to provide information. Every Member and Beneficiary when requested by the Trustee shall furnish any information which the Trustee deems necessary for the purposes of any investigation or otherwise in connection with the Fund and shall submit to medical examinations as required by the Trustee, by a registered medical practitioner nominated by the Trustee.

If a Beneficiary fails to comply with the provisions of this Rule, the Trustee may suspend the payment of any Benefit until he does comply.

Where a Member or Beneficiary furnishes information required pursuant to the Rules, affecting or likely to affect the Benefits payable to or in respect of the Member or Beneficiary, and the information supplied is incorrect or misleading or relevant information is deliberately withheld, the Trustee, after obtaining the advice of the Actuary, may in its absolute discretion alter the said Benefits to amounts that would have applied had full and accurate information been supplied.

If by reason of any misrepresentation or omission made by or on behalf of any Member or Beneficiary, Benefits are paid to any person in excess of the Benefits which would have been paid had full and accurate information been supplied, the Trustee shall be entitled to recover the amount of the excess from all or any of the persons to whom the Benefits shall have been paid.

- 1.8.4 Member bound by the Rules. Notwithstanding that he may have failed to make the declaration referred to in paragraph (iv) of Rule 1.8.1 a), a Member shall by virtue of his becoming a Member be deemed to have agreed to and be bound by the Rules.

1.9 GENERAL PROVISIONS RELATING TO CONTRIBUTIONS AND EXPENSES

- 1.9.1 a) Member's Contributions deducted from his Salary. Unless the Trustee otherwise determines or the law does not so allow, the Contributions payable by a Member shall be deducted by the Employer from each payment of or on account of his Salary, and forthwith or as directed by the Trustee shall be paid by the Employer to the Fund.
- b) Member's Contributions paid direct to Fund. If the Trustee otherwise determines or the law does not allow the deduction, the Member shall pay his Contributions as and when he receives each payment of or on account of his Salary to the Fund in such manner as the Trustee may determine.
- c) Period during which Member shall make Contributions. Unless otherwise provided under the Rules, a Member shall continue his Contributions until he ceases to be a Member.

1.9.2 Benefits and Contributions when Special Leave is taken. In the event of a Member taking Special Leave, the Trustee shall consult with his Employer regarding the payment of Contributions by and in respect of him during the said Special Leave and then shall advise the Member in writing of the conditions which will apply in respect of Benefits and Contributions both during and after the period of Special Leave.

1.9.3 Employer's Contributions. The Trustee, after obtaining the advice of the Actuary and with the approval of the Principal Employer, shall determine the Contributions payable by each Employer on and from:

- a) the date of each actuarial investigation; and
- b) each date on which any amendment is made to the Rules which has a significant effect on the Benefits or the Contributions;

and after obtaining the like advice and with the like approval shall determine the Contributions payable by an Employer on its becoming a Participating Employer.

The Contributions payable by an Employer shall be paid to the Trustee free of all deductions, at the time, in the manner and by the instalments as agreed between the Trustee and the Employer.

1.9.4 Reduction of Employer Contributions. If an Employer is unwilling or unable to make Contributions in accordance with a determination made by the Trustee, pursuant to Rule 1.9.4, the Employer may, with the consent of the Principal Employer, make Contributions only to the extent that the Principal Employer shall agree and the Trustee may, after obtaining the advice of the Actuary, vary the Contributions payable by Members who are Employees of that Employer, after having obtained their unanimous consent to such a change, or the Benefits to or in respect of the said Members.

- 1.9.5 Interest on Contributions. The Trustee may require an Employer to pay interest on any of its Contributions in arrears or may require the Employer or Member, as appropriate, to pay interest on any Member's Contributions in arrears at a rate determined by the Trustee.
- 1.9.6 Expenses of administration. All costs, charges and expenses incurred in the management and administration of the Fund shall be paid by the Fund or, at the discretion of the Principal Employer, by the Employers at the rates and in the proportions determined by the Trustee.

1.10 GENERAL PROVISIONS RELATING TO BENEFITS

- 1.10.1 a) Member transfers to another fund. Where a Member joins or is eligible to join any other superannuation arrangement (hereinafter called the "Other Fund") the Trustee, with the approval of the Member and the Principal Employer, may pay to the Trustee of the Other Fund an amount (hereinafter called the "Transferred Amount") as determined by the Trustee after obtaining the advice of the Actuary.
- b) Application of Transferred Amount. The Trustee may require that the former Member be entitled to such rights in the Other Fund as it can agree with the trustee of the Other Fund to be just and equitable and to its allocation to him as employee contributions of that portion of the Transferred Amount as is determined by the Trustee.
- c) Benefits cease. A former Member in respect of whom a Transferred Amount is paid under this Rule and his Dependants shall not be entitled to any other Benefit and the receipt of the proper officer of the Other Fund shall be a complete discharge to the Trustee of all liability to and in respect of that former Member and except as provided in Rule 1.10.1 b) the Trustee shall have no responsibility to see to the application of the Transferred Amount.
- d) Roll-over Benefit. Where a Member makes a request to the Trustee in writing in the required manner to have part or all of his Benefit paid to one or more Approved Deposit Funds, as defined in Section 27A of the Income Tax Act or financial institutions providing annuities, such Approved Deposit Funds or financial institutions shall be herein referred to as "Roll-over Institutions", the Trustee shall make such payment or payments on the instruction of the Member to one or more Roll-over Institutions. Following the said payment to the Roll-over Institutions and the payment of the remainder of the Benefit (if any) to the Member, the Member shall not be entitled to any other Benefit from the Fund and the Trustee shall be discharged of all liability to and in respect of that former Member.
- 1.10.2 Change in Contributions and Benefits on introduction of Statutory benefits. Where a scheme having government support or recognition whether in the Commonwealth of Australia or any State or Territory thereof or any other place with which the activities of the Employer are or may for the time being be concerned (hereinafter called the "Statutory Scheme") provides, or will provide, Members, their Dependants or Beneficiaries with benefits which in the sole opinion of the Trustee are of a similar nature to any Benefit provided under these Rules, the Trustee, with the approval of the Principal Employer may alter in any way whatsoever provisions of the Rules which in the sole discretion of the Trustee correspond to provisions of the Statutory Scheme, including :

- a) Contributions payable by Members and Employers; and
- b) Benefits, including Benefits in course of payment, provided that any reduction in Benefit shall not exceed the amount of the similar benefit under the Statutory Scheme and provided further that any reduction in Benefits (unless expressly required by the Statutory Scheme) shall not apply in respect of any Benefits accrued under these Rules in respect of Service prior to the effective date of institution or modification of the Statutory Scheme to the extent that those Benefits are secured by the Contributions made to the Fund prior to the said effective date.

- 1.10.3 a) Excessive Benefits. Notwithstanding any other Rule, Benefits payable to a Member under the Rules shall be limited to amounts which with the benefits payable to the Member under any other superannuation fund are not excessive for the purposes of Section 23F of the Income Tax Act. The Trustee shall inform a Member of any reduction in or limitation of his entitlement under the Rules arising from the operation of this Rule.
- b) Excess Benefits Fund. In the event that the Benefits payable to a Member or Members are excessive the Trustee may establish a fund (known as "The Excess Benefits Fund") which is separate and distinct from the Fund and which is administered by the Trustee subject to the same trusts powers authorities discretions and provisions as apply to the Fund as set out in these Rules save and except for the provisions of this Rule and save as to the Contributions to be made and save as to such other substantive matters as the Trustee in its discretion shall determine and may transfer from the Fund, to The Excess Benefits Fund such amount, securities or other assets which are in the opinion of the Trustee greater than the Benefits approved for the time being for the purposes of Section 23F of the Income Tax Act.
- c) Transfers from Excess Benefits Fund. The Trustee may at any time transfer amounts, securities or other assets from The Excess Benefits Fund to the Fund if it is of the opinion that such a transfer is warranted for the funding of the Benefits under the Fund and that the transfer will not affect the approval of the Fund under Section 23F of the Income Tax Act.
- d) The Fund. In these Rules the words "the Fund" shall, subject to the provisions of Rule 1.10.3 b) and 1.10.3 c), mean both the Fund and The Excess Benefits Fund unless the context otherwise requires.
- 1.10.4 Additional Benefits. Where in respect of any Employee the Employer or the Employee, with the prior approval of the Principal Employer, pays or transfers to the Trustee for the credit of the Fund an amount either as a capital sum at or after the date of his admittance or additional Contributions, whilst he is a Member or for a limited period, the Trustee shall provide the Member with additional or accrued Benefits in such manner as it shall determine.

1.10.5 Limitation on Benefits. If in connection with any policy of insurance effected by the Trustee against death or Total and Permanent Disablement, an insurance company refuses to insure or seeks to impose any limitations or special conditions in respect of a Member, notwithstanding the Benefits payable pursuant to the Rules in respect of any of the aforesaid contingencies, the Trustee after obtaining the advice of the Actuary, may impose limitations or special conditions in respect of the Benefits otherwise payable in the event of the death or the Total and Permanent Disablement of the Member.

1.10.6 Moneys owing to Fund or an Employer. Where a Member at the time he ceases to be an Employee owes any moneys to the Fund or to an Employer (including costs of any prosecution or civil proceedings and interest on those moneys and costs at a rate decided by the Trustee) the Member shall be deemed to have forfeited a sum equal to the said moneys and any Benefit payable to or in respect of him shall be reduced accordingly and the Trustee may retain the said moneys in the Fund or pay them to the Employer, as the case requires.

1.10.7 a) Forfeiture of Benefits. Any Member or Beneficiary :

- i) who assigns or charges or attempts to assign or charge any Benefits;
- ii) whose Benefits whether by his own act, operation of law or otherwise become payable to or vested in any other person, company, government or other public authority;
- iii) who becomes bankrupt or insolvent;
- iv) who for any reason is unable personally to receive or enjoy the whole or any portion of his Benefits or, in the opinion of the Trustee, is incapable of managing his affairs;
- v) who, in the opinion of the Principal Employer, commits any fraud or is guilty of dishonesty, defalcation or serious misconduct;
- vi) who (subject to reasonable enquiries having been made) cannot be located and whose Dependants cannot be located by the Trustee during a period of five (5) years after a payment was last made to him by his Employer or by the Trustee;

shall forfeit entitlement to all his Benefits.

b) Application of forfeited Benefits. The Trustee shall hold and apply the Benefits which would have been payable had they not been forfeited as aforesaid upon trust to make any payments pursuant to Rule 1.10.6 and subject thereto to pay or apply the balance thereto to or for the benefit of the former Member or Beneficiary (as the case requires) and his Dependants or any one or more of them in such proportions between them and on such terms as the Trustee may from time to time in its

absolute discretion determine, provided that no Benefit shall be paid in respect of a Member while he remains an Employee other than for the support and maintenance of that Member and or his Dependants in the case of hardship.

- c) Moneys not applied to Benefits to remain in the Fund. Moneys released in respect of any Benefits forfeited and not subsequently paid or applied pursuant to the Rules shall remain in the Fund.

1.10.8 a) Lump sum may be converted to Pension. On the written application of a Member or Beneficiary, the Trustee may pay from the Fund a Pension or Pensions payable for life or any period certain, in lieu of the whole or portion of any cash Benefit otherwise payable to the Member or Beneficiary. The decision of the Trustee as to whether or not any Pension shall be paid or provided shall be final and binding and accepted without question by any applicant.

- b) Amount of Pension. The amount of any Pension payable pursuant to this Rule shall be determined by the Trustee, after obtaining the advice of the Actuary, who, unless otherwise directed by the Trustee, shall make due allowance in his calculations for the expenses of its future management.

1.10.9 Conditions applicable to Pension payments. If any Benefit under the Fund is payable in the form of a Pension the following conditions shall apply :

- a) Accrual and payment of Pensions. No Pension shall be payable to or in respect of a Beneficiary for any day on which Salary is payable to the Member.

A Pension shall commence on the day following the event which gave rise to its payment.

Pensions shall accrue from day to day.

- b) Termination of Pensions. A Pension terminating on the death of a Pensioner shall be payable up to and including the day of his death.

A Pension terminating for any reason other than death shall not be payable on and from the day of the happening of the event which gave rise to its termination.

- c) Pensions payable by instalments. Pensions shall be payable by instalments which may be equal or unequal, and on the dates the Trustee determines.

- d) Trustee may approve commutation. Following the request of a Member, Pensioner or Beneficiary the Trustee, subject to the conditions set out in e) below, may in its absolute discretion commute to a lump sum part or all of any Pension payable from the Fund in respect of the person making the request.

e) Conditions governing commutation. The following conditions shall govern the commutation of Pensions payable from the Fund:

- i) The commutation in the opinion of the Trustee, after obtaining the advice of the Actuary, should not disadvantage the Fund, an Employer, Members or Beneficiaries.
- ii) The Trustee may instruct the Actuary in furnishing his advice in provision i) hereto and Rule 1.10.9 f) hereunder to regard the state of health of the person receiving or to receive the Pension as being unaffected by any significant impairment and to make such other assumptions as it determines in its absolute discretion, and it may act upon the advice so obtained.
- iii) For the purposes of this Rule the following words shall have the meanings shown :

"Commutated Sum" shall mean the value as determined by the Actuary of all the Benefits (both lump sum and Pensions) that have been or will be payable to or in respect of the Member or Pensioner and any Beneficiary of the Member or Pensioner at the time when the commutation is to take place.

"Reasonable Sum" shall mean the maximum amount which the Commissioner of Taxation would consider to be a reasonable lump sum Benefit to be paid to the Member or Pensioner at the time when the commutation is to take place.

In the event of any Member or Pensioner requesting the Trustee to commute more than twenty-five per centum (25%) of any Pension, then the Trustee shall if necessary reduce the Pension that would have been payable to the Member, Pensioner or Beneficiary so that the Commuted Sum does not exceed the Reasonable Sum. In the event of the Trustee determining that the Pension payable to a Member, Pensioner or Beneficiary shall be reduced the Trustee shall advise the Member, Pensioner or Beneficiary of the amount of what the Commuted Sum would have been had the Pension not been reduced, the amount of the Commuted Sum after the reduction of the Pension and the amount of the Reasonable Sum.

f) Amount of lump sum. Subject to the conditions set out in Rule 1.10.9 e), the Trustee, after obtaining the advice of the Actuary, shall determine the amount of the lump sum payable in respect of that part of the Pension being commuted.

1.10.10 a) Benefit payable on the death of a Member leaving Dependants. Where the Rules provides for the payment of a Benefit on the death of a Member, the Trustee shall pay the Benefit to such one or more of the former Member's Dependants in the manner, at the times, by the instalments and subject to the terms and conditions and in such proportions between them, if more than one, as the Trustee may from time to time in its absolute discretion determine.

- b) Benefit payable on the death of a Member leaving no Dependants. Where the Rules provides for the payment of a Benefit on the death of a Member leaving no Dependants, the Trustee shall pay or apply the Benefit to his legal personal representative, or if there is no legal personal representative, to such relatives of the deceased Member as appear to the Trustee to be entitled to share in his estate, provided that if there be no such relatives, the Benefit shall be absolutely forfeited and shall remain in the Fund for the benefit of the remaining Members and Beneficiaries.

- 1.10.11 a) Payment to others on behalf of Beneficiaries. When any Beneficiary is under the age of eighteen (18) years or when in the Trustee's opinion it would be in the best interests of the Beneficiary, the Trustee may pay all or part of any Benefit to any other person for application on behalf of the Beneficiary and or to his Dependants and the receipt of the person to whom the Benefit is paid shall be a complete discharge to the Trustee for the payment in respect of the Beneficiary. The Trustee shall not be bound or concerned to see to the application of the Benefit so paid.

- b) Retention of Benefits in Fund in certain cases. When in the opinion of the Trustee, it would be to the benefit of a former Member that a Benefit should not be paid to him, the former Member shall cease to be entitled to any Benefit except as provided in this Rule.

The Trustee shall retain the said Benefit in the separate account in the name of the former Member and shall pay or apply therefrom from time to time, to or for the benefit of the former Member, such sums as the Trustee thinks fit and, upon the death of the former Member, shall pay or apply any balance remaining in the said account in accordance with Rule 1.10.10.

Any amount for the time being held in the said account during a Fund Year shall be credited with interest at a rate determined by the Trustee.

- 1.10.12 Deduction of tax from Benefits. The Trustee may deduct from any Benefit or payment under the Rules, any Taxation payable from or in respect of it, whether by the Beneficiary or the Fund, and shall thereupon pay the said Taxation to the relevant authorities.

The Beneficiary shall be entitled to receive only the net Benefit or payment after the deduction has been made.

- 1.10.13 a) Payment of Benefits. Benefits are payable at the principal office for the time being of the Principal Employer in the State, Territory or country in which the Member ceased to be a Member, or otherwise as may be determined by the Trustee. The Trustee may forward the said Benefits to the postal address or bank account last notified pursuant to Rule 1.10.13 b) or to such other place as the Trustee, at the request of the Beneficiary, approves.

b) Address for Benefits. Every Beneficiary, or person to whom a Benefit is payable on behalf of or for the benefit of a Beneficiary shall, except where no further Benefit is payable from the Fund, notify the Trustee in writing at the time the Benefit becomes payable and immediately after he changes his residence :

- i) his place of residence and its full postal address; and
- ii) the bank account (if any) to which he requests that the Benefit be paid.

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

1.11 ADMISSION OF PARTICIPATING EMPLOYERS

- 1.11.1 a) Admission as Participating Employers. At the direction of the Principal Employer, the Trustee shall enter into an agreement with the Principal Employer and an Associated Employer to admit the Associated Employer as a Participating Employer for the purposes of the Rules. The form of the agreement shall be determined by the Principal Employer and the Trustee.
- b) Agreement with Associated Employer. The Trustee, after obtaining the advice of the Actuary, by agreement with the Associated Employer, may take over the assets and assume the liabilities of any existing superannuation arrangement conducted by the Associated Employer for the benefit of its employees and their dependants with the intent of preserving the existing rights and interests of any of the existing members and beneficiaries of that superannuation arrangement or providing them with Benefits which are equal in value to their rights and interests therein or on such other basis, as determined by the Trustee after obtaining the advice of the Actuary, as being fair and reasonable, and in this regard may :
- i) exchange the said rights and interests for any Benefits which the Trustee shall determine; or
 - ii) incorporate in the Rules the rules of the said superannuation arrangement transferred, with or without amendments.

1.12 TERMINATION OR SUSPENSION OF CONTRIBUTIONS OR RECONSTRUCTION OF THE PRINCIPAL EMPLOYER

1.12.1 a) Termination of Employer's Contributions. Subject to Rule 1.12.1 c), an Employer's Contributions shall terminate where:

- i) the Employer goes into liquidation (except for the purpose of amalgamation or reconstruction);
- ii) the Employer, other than the Principal Employer, ceases to be an Associated Employer (of which the Principal Employer shall be the sole judge) and the Principal Employer, by notice in writing to the Trustee, advises that Contributions of the former Associated Employer shall cease;
- iii) the Employer voluntarily terminates its Contributions by notice in writing to the Trustee.

An Employer shall cease to be a Participating Employer on the termination of its Contributions.

b) Exercise of powers of the Principal Employer. If the Principal Employer terminates its Contributions pursuant to Rule 1.12.1 a), the powers and discretions vested in the Principal Employer under the Rules shall be exercisable by such of the Participating Employers as the Trustee shall from time to time determine.

c) Transfer of Participating Employer's business. If a Participating Employer (herein called the "Former Employer") is amalgamated with or disposes of its undertaking to the Principal Employer or to another Participating Employer (herein called the "New Employer") Contributions shall be deemed not to have terminated but the Members who are Employees of the Former Employer shall become Employees and Members with the New Employer and the New Employer shall pay future Contributions in respect of those Members.

d) Notice of termination. A notice of termination given by an Employer pursuant to provisions i) and ii) of Rule 1.12.1 a) shall apply in respect of all of the Members of that Employer. A notice given by an Employer pursuant to provision iii) of Rule 1.12.1 a) may, as stated in the notice, apply to all of the Members of that Employer or any section or class of the Members of that Employer. The notice shall be given to take effect on a date to be agreed to between the Employer giving the notice and the Trustee but not more than one (1) year from the date of such notice, provided that in the event of liquidation, Contributions shall terminate immediately.

e) Suspension of Employer's Contributions. An Employer may by notice in writing to the Trustee, suspend its Contributions for up to two (2) years from a date specified in the notice. The suspension may apply in respect of all the Members of that Employer or any section or class of Members of that Employer.

On a Member ceasing to be an Employee whilst his Employer's Contributions are suspended and where the Benefit payable to him exceeds the Benefit on Resignation, the Benefit payable shall be determined by the Trustee acting on the advice of the Actuary.

If an Employer's Contributions remain suspended for a continuous period of two (2) years, the Employer's Contributions shall be deemed to have terminated at the end of the two year period and the provisions of Rule 1.12.2 shall apply. If the Employer, by notice in writing to the Trustee, resumes making Contributions to the Fund, the Contributions of Members shall also be resumed at the same time and the future Benefits payable from the Fund in respect of the relevant Members shall be advised to the Employer and the Members by the Trustee acting on the advice of the Actuary.

- f) Member's Contributions. No Contributions shall be made by a Member where his Employer has terminated or suspended its Contributions in respect of him.
- g) Employees not to be admitted. No Employee of an Employer shall be admitted as a Member where the Employer's Contributions in respect of all of its Members have been terminated or suspended.

1.12.2 Provision for Members following termination of Contributions

- a) Cessation of Membership. The Employees of an Employer shall cease to be Members as at the date of termination of Contributions by the Employer and the Trustee shall appropriate in respect of each Member who was an Employee of that Employer (herein called the "Ex-Member") as at that date, that portion of the assets of the Fund which the Trustee, after obtaining the advice of the Actuary, shall determine to be held in the Fund in respect of that Ex-Member.
- b) Provision for Ex-Member. The Trustee shall make provision for every Ex-Member out of the assets appropriated to him as aforesaid (herein called the "Appropriated Benefit") in any of the following ways as may be decided by the Trustee in its sole discretion, namely:
 - i) Where an Ex-Member ceases to be a Member following the sale of part or all of the business of an Employer and becomes a member of another superannuation arrangement conducted by the company, firm, person or organisation purchasing the said part or all of the business, by transfer of the Appropriated Benefit to the trustees thereof.
 - ii) Where an Ex-Member is a member of any other superannuation arrangement approved by the Commissioner of Taxation for the purposes of Section 23F of the Income Tax Act, and so requests, by transfer of the Appropriated Benefit to the trustee thereof.

- iii) By paying the Appropriated Benefit for the Ex-Member to a Roll-over Institution or similar body and the transaction is approved by the Commissioner of Taxation for the purposes of Section 23F of the Income Tax Act.
- iv) By paying the Appropriated Benefit to the Ex-Member on his ceasing to be an Employee or in accordance with Rule 1.10.10 on his death.
- c) No further claims against the Fund. An Ex-Member in respect of whom an Appropriated Benefit has been applied under the provisions of Rule 1.12.2 b) shall have no right to resort to nor claim against the Fund otherwise than in respect of his Appropriated Benefit.

1.12.3 Reconstruction or amalgamation of the Principal Employer

- a) Agreement to carry on Fund. If the Principal Employer is reconstructed, goes into liquidation for the purpose of reconstruction, is amalgamated with another company or if it disposes of its undertaking, the Trustee may enter into an agreement with its successor (herein called the "Successor") for carrying on the Fund under the Rules or any similar deed or rules, and for this purpose the Trustee may agree to such alterations or modifications to the Rules as may be requisite so that the then Members and Beneficiaries will become entitled to benefits similar to those provided under the Rules.
- b) Agreement binding. Any agreement made pursuant to Rule 1.12.3 a) shall bind all Members and Beneficiaries in addition to the parties thereto.
- c) Failure to negotiate agreement. In the event of its failing to negotiate agreement with the Successor, the Trustee may submit to all Members and to all Beneficiaries another superannuation arrangement which, subject to its approval by not less than two-thirds of the total number of Members and Beneficiaries, shall bind all Members, Beneficiaries and the Trustee.

If an arrangement is not approved as aforesaid within a period of six (6) months after the reconstruction, amalgamation or disposal, the provisions of Rule 1.12.2 shall take effect.

1.13. ALTERATION OF THE RULES

1.13.1. Power of alteration of the Rules. Subject to Rule 1.10.2 and the other provisions of this Rule 1.13, the Trustee may by resolution, with the consent of the Principal Employer, at any time alter modify or add to the Rules (including this Rule) with effect from a date before on or after the date of the amendment provided that no such alteration modification or addition shall be made unless the Actuary certifies that in his opinion any such alteration modification or addition will not substantially prejudice the value of the rights secured for or in respect of any Member by the Contributions paid to the Fund prior to the date of such alteration modification or addition or unless at least seventy-five per centum (75%) of Members for the time being give their consent in writing thereto and further provided that no alteration modification or addition may be made to the provisions of the Rule which may authorise the application or use of any part of the Fund for any purpose other than:

- a) the provision of Benefits for Employees or their Dependants;
- b) the making of any refund or allowance to Members;
- c) the payment of the expenses arising out of the management control administration or protection of the Fund;
- d) indemnity to the Trustees as herein provided;
- e) reimbursement to the Principal Employer or to an Associated Employer of any losses of the nature herein specified.

1.13.2 Power of alteration of the Rules for maximum exemption from tax duty and to conform with requirements of governmental authorities. The Trustee, with the consent of the Principal Employer, may by resolution from time to time amend the Rules with effect from a date before on or after the date of the amendment where the principal purpose of the amendment is to enable:

- a) the Fund, the income of the Fund, or Contributions of Employer or Member, or a greater proportion thereof, to be exempted from Taxation or to be allowable deductions for Taxation, or to be assessable for Taxation at a lower rate; or
- b) the maximum relief of the Fund, Employers, Members or Beneficiaries, to be obtained from probate, stamp, estate, succession and other duties in consequence of the death of a Member or Beneficiary, or payment of a Benefit or for any other reason; or
- c) the Fund to comply with any law, custom or practice of the Commonwealth of Australia or any State or Territory thereof, or any other country, state or territory, as the case requires, in relation to superannuation benefits or funds or employee benefits generally or otherwise.

1.13.3 Power to alter Register. The Trustee may at any time and from time to time alter delete or remove from the Register information or details concerning persons who have ceased to be Members and Beneficiaries and may consolidate the Register so that it contains up to date information and details concerning Members and Beneficiaries whose rights and entitlements are affected thereby PROVIDED THAT no information or details concerning a person who is for the time being a Member or Beneficiary shall be altered deleted or removed unless the Actuary certifies that in his opinion that information or detail to be altered, deleted or removed

- i) does not prejudicially affect the rights or entitlement of the Member or Beneficiary concerned; or
- ii) corrects an error in the Register.

DIVISION 2

BENEFITS AND CONTRIBUTIONS

2.1 GENERAL PROVISIONS

2.1.1 Application. The Provisions of Division 2 shall apply to all Eligible Employees who become Members and are entitled to the Benefits herein contained.

2.1.2 Definitions

For the purposes of the Rules, the following expressions shall have the meanings as shown in respect of Members who are entitled to Benefits under this Division 2.

"Additional Voluntary Contributions" in respect of a Member means Contributions paid pursuant to Rule 2.4.1.

"Additional Voluntary Contributions Account" in respect of a Member means the account maintained in the Fund in his name pursuant to Rule 2.4.2.

"Additional Voluntary Contributions Account Balance" in respect of a Member means the amount standing to the credit of his Additional Voluntary Contributions Account pursuant to Rule 2.4.3

"Agreed Rate" means the rate of interest of eight per centum (8%) per annum, or such other rate as the Trustee, after obtaining the advice of the Actuary and the approval of the Principal Employer, may from time to time determine.

"Determined Rate" means the rate of interest determined in respect of each Fund Year by the Trustee, and unless otherwise determined by the Trustee, shall be related to the earning rate of the Fund for the relevant Fund Year.

"Early Retirement Age" means the age of fifty-five (55) years.

"Final Average Salary" in respect of a Member means his average Salary during the three (3) years of his Service immediately prior to his ceasing to be an Employee or his attainment of the Normal Retirement Age (whichever first occurs) or where this period of Service is less than three (3) years, his actual period provided that Final Average Salary in the case of a Member who is paid monthly shall be determined from his remuneration in the thirty-six (36) calendar months or such shorter period as is appropriate immediately prior to the date of determination.

"Fund Membership" in respect of a Member means the latest continuous period in respect of which Contributions have been made or are deemed to have been made by his Employer in relation to him and shall include any additional or varied Fund Membership granted pursuant to the provisions of the Rules.

"Member's Accumulated Contributions" in respect of a Member as at a particular date means the Contributions made by the Member to the Fund plus, in the case of a Member who has not contributed to the Fund from time to time pursuant to the proviso to Rule 2.2.1, an amount equal to five per centum (5%) of his Salary from time to time while he has not contributed to the Fund, together with interest at the Agreed Rate from the date payable to the Fund to the said date and compounded at such times as the Trustee may on the advice of the Actuary decide.

"Member's Benefit Multiple" in respect of a Member means 1.25% for each month of his Fund Membership provided that a Member's Benefit Multiple shall not in any event exceed seven (7).

"Member's Reserve" in respect of a Member means the product of (i), (ii) and (iii) hereof, where -

- (i) is his Member's Benefit Multiple;
- (ii) is his Final Average Salary; and
- (iii) is the factor set out in Table 1 attached to this Division 2 according to the age of the Member in years and complete months at the date he ceases to be an Employee.

"Normal Retirement Age" means the age of sixty-five (65) years.

2.2 CONTRIBUTIONS

- 2.2.1 Contributions by Members. A Member shall make Contributions at the rate of five per centum (5%) of his Salary from time to time until he ceases to be a Member or until he reaches the Normal Retirement Age, whichever event first occurs, provided that the Principal Employer may determine from time to time that a certain class or group of Members shall not be required to make Contributions to the Fund and the Principal Employer shall notify the Trustee of the Members to whom this provision applies.

2.3 BENEFITS

- 2.3.1 Retirement at Normal Retirement Age. The Trustee shall pay a lump sum Benefit to a Member, on his ceasing to be an Employee and a Member at the Normal Retirement Age.

The Benefit shall be equal to the product of (i) and (ii) hereof, where -

- (i) is his Member's Benefit Multiple; and
- (ii) is his Final Average Salary.

2.3.2 Retirement after the Normal Retirement Age. The Trustee shall pay a lump sum Benefit to a Member, on his ceasing to be an Employee and a Member after the Normal Retirement Age.

The Benefit shall be equal to the Benefit that would have been paid had the Member ceased to be an Employee at the Normal Retirement Age, together with interest at the Agreed Rate, or some other rate as determined by the Trustee from time to time in its sole and absolute discretion, from the date he attained the Normal Retirement Age to the date he ceased to be an Employee.

2.3.3 Retirement at or after Early Retirement Age. The Trustee shall pay a lump sum Benefit to a Member, on his ceasing to be an Employee and a Member on or after the Early Retirement Age and before the Normal Retirement Age, other than by reason of death or Total and Permanent Disablement.

The Benefit shall be the product of (i), (ii) and (iii) hereof, where -

- (i) is his Member's Benefit Multiple;
- (ii) is his Final Average Salary; and
- (iii) is a factor which is equal to one (1) if the Member has attained the age of sixty (60) years and, in any other case, is the factor in Table 2 attached to this Division 2 according to the age of the Member in years and complete months at the date he ceases to be an Employee.

2.3.4 Retirement on Total and Permanent Disablement. The Trustee shall pay a lump sum Benefit to a Member, on his ceasing to be an Employee and a Member before the Normal Retirement Age on account of his Total and Permanent Disablement.

The Benefit shall be equal to the Benefit that would have been paid pursuant to Rule 2.3.1 had the Member continued in Service to the Normal Retirement Age and, for the purposes of determining his Final Average Salary, it is to be assumed that his Salary continued unaltered to the Normal Retirement Age.

2.3.5 Death. The Trustee shall pay a lump sum Benefit in accordance with Rule 1.10.10 on the death of a Member before the Normal Retirement Age.

The Benefit shall be equal to the Benefit that would have been paid pursuant to Rule 2.3.1 if the Member had continued in Service to the Normal Retirement Age and, for the purposes of determining his Final Average Salary, it is further assumed that his Salary continued unaltered to the Normal Retirement Age.

- 2.3.6 Resignation. The Trustee shall pay a lump sum Benefit to a Member, on his ceasing to be an Employee and a Member on account of his resignation before the Early Retirement Age which is not, in the sole and absolute discretion of the Trustee, arising from or in other ways connected with his dismissal from Service by his Employer and shall not also include resignation by the Employee to avoid dismissal.

The Benefit shall be -

- (a) If his Fund Membership at the date he ceases to be an Employee and a Member is less than five (5) years, his Member's Accumulated Contributions.
- (b) If his Fund Membership at the date he ceases to be an Employee and a Member is five (5) or more years but less than twenty (20) years, the sum of (i) and (ii) hereof, where -
 - (i) is his Member's Accumulated Contributions; and
 - (ii) is the excess (if any) of his Member's Reserve over his Member's Accumulated Contributions multiplied by the factor in Table 3 attached to this Division 2 according to his Fund Membership in years and complete months.
- (c) If his Fund Membership at the date he ceases to be an Employee and a Member is twenty (20) years or more, his Member's Reserve.

- 2.3.7 Dismissal. The Trustee shall pay a lump sum Benefit to a Member on his ceasing to be an Employee and a Member on account of his dismissal by his Employer prior to the Early Retirement Age or in other circumstances and where he is not entitled to a Benefit under Rules 2.3.1 to 2.3.6 inclusive.

The Benefit shall be his Member's Accumulated Contributions.

- 2.3.8 Pension Option. Where a Member is entitled to a lump sum Benefit pursuant to Rules 2.3.1 to 2.3.3 inclusive, he may elect to receive part or all of his Benefit as a Pension instead of a lump sum Benefit. The amount of the Pension shall be determined by the Trustee, after obtaining the advice of the Actuary, as being equivalent in value to the lump sum Benefit forgone in accordance with the provisions of Rule 1.10.8.

2.4 ADDITIONAL VOLUNTARY CONTRIBUTIONS

- 2.4.1 Payment of Additional Voluntary Contributions. A Member, with the approval of the Trustee, may make Additional Voluntary Contributions to the Fund, provided that the Additional Voluntary Contributions made by the Member in a Fund Year shall not exceed any amount fixed by the Trustee at the relevant time.

2.4.2 Additional Voluntary Contributions Account. The Trustee shall credit or debit, as the case requires, moneys received, paid or apportioned in respect of each Member to an Additional Voluntary Contributions Account maintained in the Fund in his name as follows-

- (a) Additional Voluntary Contributions made or deemed to have been made by the Member pursuant to Rule 2.4.1. shall be credited;
- (b) interest at the Determined Rate shall be credited or debited as the case requires; and
- (c) all amounts paid as Benefits out of a Member's Additional Voluntary Contributions Account shall be debited.

2.4.3 ADDITIONAL VOLUNTARY CONTRIBUTIONS ACCOUNT BALANCE

- (a) End of Fund Year. The Additional Voluntary Contributions Account Balance in respect of a Member means the net amount standing to the credit of his Additional Voluntary Contributions Account at that date.
- (b) During the Fund Year. The Additional Voluntary Contributions Account Balance as at any other day shall be determined by subtracting (ii) from (i) hereof, where -
 - (i) is the balance in his Additional Voluntary Contributions Account as at the end of the last preceding Fund Year, and all his Additional Voluntary Contributions credited thereafter with interest at the Determined Rate for the last preceding Fund Year or other rate as determined by the Trustee to the date of calculation; and
 - (ii) is all the Benefits paid out of his Additional Voluntary Contributions Account since the end of the last preceding Fund Year and interest at the Determined Rate for the last preceding Fund Year or other rate as determined by the Trustee to the date of calculation.

2.4.4 Payment of Additional Voluntary Contributions Account Balance. The Trustee shall pay the Additional Voluntary Contributions Account Balance in respect of a Member when he ceases to be an Employee and a Member and it shall be paid to the Member or, in the event of his death, in accordance with Rule 1.10.10, in addition to any other Benefit payable under Rule 2.3.

TABLE 1
MEMBER'S RESERVE FACTORS

<u>Age of</u> <u>Factor</u> <u>Member</u> (years)	<u>Factor</u>	<u>Age of</u> <u>Member</u> (years)	
25 & under	.500	45	.750
26	.510	46	.765
27	.520	47	.780
28	.530	48	.795
29	.540	49	.810
30	.550	50	.825
31	.560	51	.840
32	.570	52	.855
33	.580	53	.870
34	.590	54	.885
35	.600	55	.900
36	.615	56	.920
37	.630	57	.940
38	.645	58	.960
39	.660	59	.980
40	.675	60 & over	1.000
41	.690		
42	.705		
43	.720		
44	.735		

Where the Member's age involves years and months, the appropriate factor is to be interpolated between the factors for adjacent integral ages.

TABLE 2
EARLY RETIREMENT FACTORS

Age of Member (years)	Factor
55	.900
56	.920
57	.940
58	.960
59	.980
60	1.000

Where the Member's age involves years and months,
the appropriate factor is to be interpolated
between the factors for the adjacent integral ages.

TABLE 3
RESIGNATION BENEFIT FACTORS

Fund Membership (years)	Factor
5	
6	.10
7	.16
8	.22
9	.28
10	.34
11	.40
12	.46
13	.52
14	.58
15	.64
16	.70
17	.76
18	.82
19	.88
20 & over	.94
	1.00

Where the Fund Membership involves years and months, the appropriate factor is to be interpolated between the factors for the adjacent integral Fund Memberships.

E. S. Knight & Co.

CONSULTING ACTUARIES

Level 9, National Bank House, 500 Bourke Street, Melbourne 3000, Australia. Telephone 67 7851

12 August 1985

The Trustee
Elders IXL Superannuation Fund
351 Collins Street
MELBOURNE 3000

Dear Sirs,

I, John Michael Newman, of E S Knight & Co 500 Bourke Street Melbourne hereby certify that amendment of the Rules by the adoption of the attached Resolution substituting the revised Divisions 1 and 2 of the Rules dated 9th August 1985 does not substantially prejudice the value of the rights secured for or in respect of any Member by contributions paid to the Fund prior to the date of amendment.

J M Newman
Fellow of the Institute of Actuaries of Australia

Melbourne B. C. Amond FIA, ASA, G. I. Burgess B.Sc. FIA, J. R. Cumpston M.Eng. ScI., M.A.D.M.I.N., FIA, R. S. Mitchell FIA, ASA,
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G. S. Langton BA, FIA, ASA, P. R. Hughes BA, FIA, C. L. E. Westman BA, F.A.I., FIA.

All partners are Fellows of the Institute of Actuaries of Australia.



Australia's Worst White-Collar Crime

Phillip Sweeney

to:

info

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From: Phillip Sweeney <oursuperfund2012@gmail.com>

To: info@sct.gov.au,

1 Attachment



1958 Consolidation Deed of Variation #1.docx.pdf

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Genuine Deed that was dishonestly concealed from the Tribunal attached



12th July, 1956

DATED

6-5-

1958.

For
E. S. B. C. F.

ELDER SMITH & CO. LIMITED

THE PROVIDENT FUND

DEED

varying Regulations of Fund.

Finlayson, Phillips, Astley &
Hayward,
Solicitors,
16 Pirie Street,
ADELAIDE.

Engd. BCF.
E.S.B.

6-5-58

201

ELDER SMITH & CO. LIMITED

THE PROVIDENT FUND

W H E R E A S by Deed dated the twenty third day of December One thousand nine hundred and thirteen made between Elder Smith & Co. Limited (hereinafter called "the company") of the first part James Harvey and Alick James Murray both of Adelaide in the State of South Australia Directors of the company and Alfred Horsley Chapman of Adelaide aforesaid Secretary of the company of the second part and certain persons whose names from time to time were or might be subscribed and whose seals were or might be affixed thereto (being at the time of their execution thereof officers of the company under the age of sixty five years) of the third part a Provident and Guarantee Fund was established in connection with the business of the company AND WHEREAS the said Deed dated the Twenty third day of December One thousand nine hundred and thirteen has been heretofore varied and amended by fourteen several deeds of variation dated the Seventh day of October One thousand nine hundred and thirty one the Twenty ninth day of August One thousand nine hundred and thirty nine the Twenty sixth day of March One thousand nine hundred and forty the Eleventh day of December One thousand nine hundred and forty six the Twenty sixth day of October One thousand nine hundred and forty eight the Thirtieth day of June One thousand nine hundred and fifty three the Eighteenth day of January One thousand nine hundred and fifty five the Eighth day of March One thousand nine hundred and fifty five the twenty sixth day of July One thousand nine hundred and fifty five the Twentyseventh day of September One thousand nine hundred and fifty five the Thirteenth day of December One thousand nine hundred and fifty five the Twentyfirst day of February One thousand nine hundred and fifty six the Twentieth day of August One thousand nine hundred and fifty six and the twenty third day of October One thousand nine hundred and fifty six AND WHEREAS pursuant to the said Deed of Variation dated the Twenty sixth day of October One thousand nine hundred and forty eight the name of the Fund was changed to "The Provident Fund" and the Regulations under and governing the said Fund were renumbered NOW THEREFORE pursuant to Regulation 44 of the Regulations governing the Provident Fund we ALEXANDER JOHN MELROSE COLLIER ROBERT CUDMORE FREDERICK LLOYD DUMAS and TOM ELDER BARR SMITH all of Adelaide IAN RICHARD McTAGGART of "Nonning" Port Augusta and ALFRED MOXON SIMPSON HENRY NORMAN GILES and NORMAN SMITH YOUNG all of Adelaide Directors of Elder Smith & Co. Limited being all the Directors for the time being of the company with the assent of the said ALEXANDER JOHN MELROSE FREDERICK LLOYD DUMAS



182045



TOM ELDER BARR SMITH and of REGINALD WALTER SEEDSMAN and JAMES GORDON DOBBS both of Adelaide being all the trustees of the said Fund testified by their execution of this Deed DO BY THIS DEED make the following alterations in the provisions of the said Deed dated the Twenty third day of December One thousand nine hundred and thirteen as varied and altered as aforesaid namely

Subject to the proviso hereinafter contained the whole of the Regulations numbered 1 to 63 (both inclusive) under and governing the Provident Fund and the schedules to such Regulations are hereby repealed and the Regulations set forth in the Schedule hereunder written are substituted therefor and as from the date hereinafter mentioned shall be the Regulations governing the said Fund PROVIDED that nothing herein contained shall apply in the case of or affect an officer who died or retired from the service of the company prior to the first day of July One thousand nine hundred and fifty six and the pension and other benefits to which any such officer or his widow or dependants are or may be or become entitled shall be regulated by and be calculated in accordance with the Regulations governing the Fund which were in force at the date of his death or retirement.

It is hereby declared pursuant to the said Regulation 44 that the alteration and new provisions hereby made shall come into force and shall be deemed to have come into force as on and from the first day of July One thousand nine hundred and fifty six.

THE SCHEDULE HEREINBEFORE REFERRED TO

ELDER SMITH & CO. LIMITED

THE PROVIDENT FUND

REGULATIONS

PRELIMINARY

Definitions

1. In these presents unless excluded by the subject or context "the Trustees" means and includes the first trustees or other the trustee or trustees for the time being hereof.

"The Fund" means The Provident Fund hereby established and shall include all accretions thereto.

"The Board" means the Board of Directors for the time being of the Company.

"Dependant" or "Dependants" means and includes such of the children grand-children parents sisters and brothers of any officer or pensioner as in the opinion of the Trustees are or were in any way dependent upon such officer or pensioner.

"Secretary" means and includes the Secretary for the time being of the company and any other person for the time being acting as such.

"Officer" or "Officers" means and includes all male persons now or hereafter on the staff of the company who shall apply on the prescribed form to become contributors to the Fund and whose application shall have been granted by the Board. The Board may in its uncontrolled discretion and from time to time determine whether any person is or is not an "officer".

"Pensioner" means and includes a person (including any person engaged on war service) who has been an "officer" and is in receipt of a pension under the provisions hereof or who would but for Regulation 32(11) hereof have been entitled to receive a pension.

"A person engaged on war service" shall mean and include during the period of the determination hereinafter mentioned any officer whom the Board in their uncontrolled discretion may determine from time to time to be engaged wholly or in part on any war service or duty in any part of the world or to be engaged wholly or in part on National Service Training.

"Temporary employment" means employment of a seasonal nature only, or employment for a defined period.

"Service with the company" means employment by the company subsequent to the date of admission as a contributor to the Fund.

"The Auditor" means the auditor or one of the auditors for the time being of the company. _____

Fund
Established

2. A fund to be called "The Provident Fund" shall be constituted and established and such Fund shall be vested in and held by the Trustees. _____

Of what fund
consists

1. The Fund shall consist in the first instance of the said sum of Thirty Thousand Pounds (£30,000) contributed by the company in pursuance of such authority as aforesaid the sum of Ten thousand pounds (£10,000) contributed by Peter Waite of Adelaide Gentleman the Chairman of Directors of the company and the sum of Ten thousand pounds (£10,000) contributed by Robert Barr Smith of Adelaide Gentleman and there shall be added to the Fund such other contributions or additions as may hereafter be made by the company or the officers or other persons whomsoever and the income of the Fund and of the investments for the time being representing the same shall be added to and constitute part of and be included in the term "The Fund" as before defined. _____

Actuarial
investigation
of Fund

4. The condition and position of the Fund shall be actuarially investigated once at least in every five years computed from the first day of January 1914 and

the Trustees may after any such investigation with the approval of the Board increase or diminish the rate of contributions to be paid by officers or the benefits hereunder in accordance with the result of such investigation. Nothing in this Regulation contained shall prejudice or affect the power of alteration conferred by Regulation 50. —

TRUSTEES

Appointment
of Trustees

5. The trustees shall until otherwise determined by the Board be five in number and shall consist of the following persons namely :- Three of the Directors for the time being of the company nominated for that purpose by the Board and two officers to be nominated by the Board.

The present trustees are The Honourable Alexander John Melrose M.L.C., Sir Frederick Lloyd Dumas, Tom Elder Barr Smith, Reginald Walter Seedsman and James Gordon Dobbs.

The Board may from time to time by resolution appoint any qualified person to be a new trustee either to fill a casual vacancy or as an additional trustee and notice in writing of any such appointment under the hand of the Secretary of the company shall be given to the trustees.

Vacation of
office

The office of trustee shall be vacated -

(a) If any trustee resign or cease to be a Director or officer as the case may be then from the date of such resignation or ceasing to be a Director or officer;

(b) If at any time it is resolved by the Board that any trustee shall cease to be a trustee then forthwith from the passing of such resolution. —

Trustees to
have full
management
of Fund

6. The trustees shall have the complete management and control of the Fund and of all proceedings matters and things in connection therewith and may employ any person or persons as Secretary Treasurer or otherwise at such remuneration as they shall think fit. —

Meetings of
Trustees

7. The trustees may meet together for the despatch of business adjourn and otherwise regulate their meetings as they think fit. A trustee may at any time convene a meeting. All meetings shall be held at the Head Office of the Company unless the trustees or a majority of them shall otherwise determine. Questions arising at any meeting shall be decided by a majority of votes. The Chairman shall have a deliberative vote and in case of an equality of votes a second or casting vote. —

Quorum

8. At any meeting of the trustees two trustees one of whom shall be a trustee who is a Director of the company shall form a quorum. Any meeting at

which a quorum is present shall be competent to exercise all or any of the authorities powers and discretions hereby vested in the trustees generally. —

9. The trustees shall cause proper minutes to be kept and entered in a book to be provided for the purpose of all their resolutions and proceedings and any such minutes of any meeting of the trustees if purporting to be signed by the Chairman of that or the succeeding meeting shall be receivable as prima facie evidence of the matters stated in such minutes . —

10. A register shall be kept by the trustees in which shall be entered the names and addresses of and to be furnished by the persons for the time being and from time to time who are in receipt of any pension or other payment hereunder and of the trustees for the time being hereof. —

11. Nothing in this Deed shall be construed as importing any personal liability on the part of the trustees. The trustees and their respective executors and administrators shall (except in case of wilful default) be indemnified and saved harmless out of the Fund from and against all charges costs losses damages and expenses which they or any of them shall or may incur or sustain in or about the execution of their respective offices or trusts or in or about any act matter or thing done or omitted by the trustees in or concerning the execution of the trusts of this Deed and in the exercise of any of the authorities and discretions vested in this behalf and shall have a lien on the Fund for such indemnity and may pay out of the Fund all necessary amounts in connection with or concerning such indemnity. —

12. The receipt of any trustee for any moneys shall effectually discharge the person paying the same from liability to see to the application thereof. —

INVESTMENT OF FUND

13. The Bank Account of the Fund shall be kept by the trustees at the Head Office of the company in the name of "The Provident Fund" and all cheques drawn thereon shall be signed by at least two of the trustees one of whom shall be a Director. All moneys from time to time in the hands of the trustees upon the trusts hereby constituted and not required for making normal payments from time to time shall be invested in any investments by law permitted to trustees or in any of the following securities :

- (a) In Government securities of the Commonwealth of Australia or of any Australian State or the Dominion of New Zealand;
- (b) On real securities in any of the said States or in the said Dominion;

(c) In any securities guaranteed by the Government of the said Commonwealth or of any of the said States or of the said Dominion;

(d) In the bonds debentures or other securities of any municipal corporation in any of the said States or in the said Dominion;

(e) On deposit with any of the said Governments the Company the Commonwealth Bank of Australia the Savings Bank of South Australia or any incorporated Bank carrying on business in the said State of South Australia and proclaimed by the Governor in the Government Gazette as a Bank in which deposits may be made by Trustees;

(f) In any of the parliamentary stocks or public funds or Government securities of the United Kingdom of Great Britain and Northern Ireland;

(g) The stock or shares (whether preference or ordinary and whether fully or partly paid up) debentures or debenture stock bonds registered notes or other like securities of the company or of any other limited liability company carrying on business in any part of the Commonwealth of Australia.

The trustees shall have full liberty from time to time to transpose or vary any such investments.

Any investment may be made in the names of the trustees or in the name of Elder's Nominees Limited and any investment for the time being or from time to time standing in the names of the trustees may at their discretion be transferred into the name of Elder's Nominees Limited PROVIDED that upon the making of any investment in the name of Elder's Nominees Limited or upon the transfer of any investment into the name of Elder's Nominees Limited that company shall execute a declaration of trust that it has no beneficial interest in the investment that the investment belongs to the Fund and that Elder's Nominees Limited will hold it in trust for the Fund and will transfer it or otherwise deal with it from time to time as may be directed by the trustees.

Any moneys left with the company for the purpose of making normal payments as aforesaid shall carry interest at such rate not being less than £5 per centum per annum as may from time to time be fixed by the Board and such interest shall accrue from day to day on the daily balance and shall be credited half-yearly on the 30th day of June and the 31st day of December in each year. The rate from time to time fixed by the Board shall continue to be payable until a new rate is fixed. The present rate fixed by the Board is £5.15. 0 per centum per annum.

underwriting

14. The trustees may from time to time at their discretion enter into any agreement with any person for underwriting or sub-underwriting any issue of shares stock bonds debentures or debenture stock or other securities of any

limited liability company or of any other corporate body subject to the following conditions namely :

(a) The shares stock bonds debentures debenture stock or other securities in respect of which the agreement is entered into (hereinafter referred to as "the securities") shall be shares stock bonds debentures debenture stock or securities upon which the trustees are by these Regulations authorised to invest moneys belonging to the Fund;

(b) The trustees shall first have resolved that the securities are proper securities on which to invest moneys belonging to the fund and that moneys belonging to the fund up to a maximum sum to be named in the Resolution shall be invested in the securities,

(c) The number or amount of the securities underwritten or sub-underwritten shall not exceed the number or amount that could be taken up by the investment of the maximum sum named in the Resolution referred to in paragraph (b) hereof,

and the trustees may apply moneys belonging to the fund in discharging any liability which they may incur under any such agreement. All commissions discounts and other remuneration received by the trustees in respect of any such underwriting or sub-underwriting shall form part of the Fund. _____

Minimum
return

15. Not later than 31st January and 31st July of each year the trustees shall procure from the auditor and deliver to the Board a certificate in writing signed by the auditor and setting out :

(a) The assets constituting the Fund at the last preceding 31st December or 30th June as the case may be

(b) The total of the accumulated funds at the relevant date calculated on the original cost price of such assets to the Fund

(c) The amount of income received or accrued on moneys invested otherwise than on deposit with the company during the six months ended on the last preceding 31st December or 30th June (as the case may be).

(d) The amount of income received on moneys on deposit with the company during the relevant six months

(e) The amount of any capital loss incurred or capital gain realised during the relevant six months on the realisation of any investment having a maturity date and the reinvestment of the proceeds in another investment having a maturity date

(f) The total income earned by the Fund during the relevant six months

(g) The amount (if any) required to bring the total income earned by

the Fund during the relevant six months to a figure which will represent an average rate of 25 per centum per annum on the accumulated funds calculated on the amount of such funds on the last day of each month.

"Capital loss" means the difference between the selling price of an investment of the class mentioned in paragraph (e) hereof and the buying price of the substituted investment where the buying price is the higher and "Capital gain" means the difference between the said selling and buying prices where the selling price is the higher. For the purposes of this Regulation any capital gain shall be deemed to be income of the Fund earned during and spread over the period from the date of purchase of the substituted investment up to the date of maturity thereof.

"Total income" of the Fund means the sum of the amounts referred to in paragraphs (c) and (d) hereof and a proper proportion of any capital gains deemed to be income earned during the relevant six months.

"Original cost price" means the cost to the Fund on each original investment of Fund moneys and for the purposes of this Regulation that price shall remain constant notwithstanding any subsequent change of investment.

The company shall on or before 31st March or 30th September (as the case may be) pay to the trustees a sum equal to the sum certified by the auditor pursuant to paragraph (g) hereof together with a sum equal to the total amount of any capital losses incurred during the relevant period of six months.

ELIGIBILITY AND ADMISSION

16. No male person on the staff of the company shall be admitted as a contributor to the Fund unless he shall have been in the employment of the company for a period of three years or for such lesser period as the Board and the trustees may in any particular case determine (hereinafter referred to as "the probationary period") and unless his work and his conduct during the probationary period have in the opinion of the Board been satisfactory.

17. Any male person who has served his probationary period and who shall be under 45 years of age on the date as from which he is permitted to contribute to the Fund may apply in writing to the trustees in such form and manner as the trustees may from time to time prescribe for admission as a contributor as from a date to be specified in his application. If such date shall be earlier than the date of his application such person shall agree with the trustees in such form as the trustees may from time to time prescribe to pay all contributions to the Fund for which if he had been an officer at the specified time or such later date as the Board may determine he would have been liable together with interest

Probationary
period

Admission
to Fund

from the appropriate date at such rate as may from time to time be prescribed by the Trustees. The Trustees may recommend to the Board that such person be admitted as a contributor as from such date as the Trustees may think fit but not earlier than the date specified in his application. The application with any recommendation shall be forwarded to the Board who shall determine whether such application shall be granted or refused and may fix a date not earlier than the date specified from which such person shall be admitted as a contributor. Such person shall be bound by such determination and as from such date shall become an officer and be liable to pay contributions to the Fund together with interest at the rate aforesaid. Nothing in this regulation contained shall be construed as conferring any right on any employee of the company to be admitted as a contributor or to be admitted as such from any date earlier than the date fixed by the Board. The Board shall have an absolute discretion to grant or refuse any application and shall not be required to give any reasons for any refusal. —

Medical Examination

18. The trustees may at their discretion require any applicant for admission as a contributor to undergo a medical examination before forwarding his application to the Board. —

Inclusion of employees of absorbed business

19. If the company shall acquire absorb or take over the business of or amalgamate with any other company firm or person and any employee of such company firm or person shall be taken into the employ of the company and shall be admitted as an officer the service of such employee with such company firm or person or any portion of such service may if the Board and the trustees think fit be allowed to count as service with the company but the Board and the trustees may impose such conditions and restrictions with respect thereto as they in their absolute discretion think fit. —

Employees of company controlled by the company

20. If the company shall acquire a controlling interest in any other company the Board may with the approval of the trustees determine that any employee of such other company shall be admitted as an officer. Upon any such employee being admitted as an officer he shall be deemed for all the purposes of these Regulations to have entered the service of the company on the date of his admission and his subsequent service with such other company shall be deemed to be service with the company PROVIDED that the Board may in any case with the approval of the trustees and subject to such conditions and restrictions as they may think fit determine that the whole or any portion of the service of such employee with such other company prior to the date of his admission as an officer shall be allowed to count as service with the company. In the application of these Regulations to any person admitted as an officer under this Regulation -

(1) Regulations 23, 27, 29, 30, 34, 35, 36, 37, 39, 40, and 42 shall apply as if every reference therein respectively to the company included a reference to such other company but nothing in this sub-paragraph shall be construed to permit any employee of such other company who is admitted as an officer to count his service with such other company as service with the company to any greater extent than is provided by the foregoing portion of this Regulation.

(ii) All references to the salary of the officer shall be construed as references to the salary paid to him by such other company. —

Actuarial
deficiency on
admission of
an officer

21. If at any time any employee or any person to whom Regulation 20 applies is admitted as a contributor to the Fund in such circumstances that his admission shall involve the Fund in an actuarial deficiency the amount of such deficiency shall forthwith be paid by the company to the trustees. Any question as to whether in any case there shall be such a deficiency or as to the amount thereof shall be determined by reference to a table to be prepared from time to time as occasion may require by an Actuary appointed by the trustees. —

Transfers of
secondments

22. Any officer who may be transferred or seconded to any other organisation at the request of the company shall be eligible to remain an officer for all purposes of the Fund and the salary paid to him by such other organisation shall for the purposes of these Regulations be deemed to be a salary paid to him by the company PROVIDED that the Board may at any time or from time to time determine that any such officer shall for the purposes of these Regulations be deemed to be receiving a salary from the company at a rate fixed by the Board in lieu of a salary at the rate paid to him by such other organisation and any such determination shall be binding on the company and on the officer and may at any time or from time to time be revoked or varied by the Board. —

Officer
leaving ser-
vice, later
re-employed

23. Should any officer who has left the company's employ be afterwards re-employed by the company and be re-admitted as an officer his service with the company shall for the purposes hereof be reckoned only from the date of his re-employment PROVIDED that if the Board thinks fit his service with the company may be reckoned from the date as on or from which he was first admitted as a contributor to the Fund upon payment to the Trustees of the full contribution which he would have made to the Fund during the interval between his leaving the company's employ and his re-admission had he continued in the company's employ at the salary he was receiving when he left together with interest on the amount of such contribution at such rate as the Trustees may determine and together also with any moneys which may have been refunded to him under Regulation 39 hereof

and interest thereon at the rate of £5 per centum per annum from the date of payment to the date of repayment compounded with half-yearly rests on 30th June and 31st December in each year. Upon the readmission of an officer as aforesaid as from the date on or from which he was first admitted as a contributor the Company shall pay to the Trustees an amount equal to the total of the contributions which the company would have paid hereunder in respect of the officer during the interval between his leaving the Company's employ and his re-admission had he continued in the company's employ at the salary he was receiving when he left together with interest thereon at the same rate as the Trustees shall determine in the case of the officer's contributions. This Regulation shall not apply to any person to whom Regulation 36 applies. —

CONTRIBUTIONS

Contributions
by Company

24. The company shall contribute to the Fund monthly at the rate of five per centum per annum or at such greater or lesser rate as may from time to time be determined by the Trustees in manner hereinafter provided calculated on the amount of salaries paid to officers upon which officers are themselves making contributions as at the date of payment of each contribution by the Company. —

Contributions
by officers

25. Officers shall as from the commencement of their first pay period commencing in the month of February 1957 contribute to the Fund at the rate of five per centum per annum or at such greater or lesser rate as may from time to time be determined by the Trustees as hereinafter provided calculated on the yearly salary they shall respectively receive from the Company or any other organisation to which they may be seconded or transferred at the request of the Company and such contributions shall be made at such times and in such manner as the Trustees shall from time to time determine and may be deducted by the Board or by such other organisation from time to time from the respective salaries paid to the officers and the amounts so contributed shall be paid over or credited to the account of the Trustees for the purposes of the Fund and until otherwise determined by the Trustees there shall be deducted from each officer's salary at the end of each period of four weeks and paid over or credited to the Trustees for the purposes of the Fund an amount equal to five per centum of his salary for that period PROVIDED that an officer whose annual salary shall exceed Three thousand pounds (£3,000) shall not be required to contribute to the Fund with respect to such excess. —

Officers
Stationed
abroad

26. In the case of an officer who is stationed in the service of the company in the United Kingdom of Great Britain and Northern Ireland his salary and his

contributions to the Fund shall for the purposes of these Regulations be reckoned in English Sterling and shall not be converted to Australian currency for such purposes but the company's contributions shall be calculated as if his salary (expressed as the same amount) were payable in Australian currency without any adjustment in respect of exchange.

In the case of an officer who has spent the whole of his period of service with the company in the said United Kingdom any pension or other benefits or refunds of contributions to which he or his dependants or his personal representatives may become entitled hereunder shall be calculated and paid in English Sterling.

In the case of an officer who has spent portion of the period of his service with the company within the said Commonwealth and portion in the said United Kingdom the trustees shall on the officer ceasing to be in the service of the company place before the Board a statement showing full particulars of the officer's service with the company and the contributions paid by him together with a recommendation as to the calculation of any pension or other benefits or refunds payable to him or to his dependants or personal representatives and as to the currency in which they should be paid and the Board shall thereupon determine the method of calculation and the currency in which payment is to be made and the determination of the Board shall be conclusive and binding on all parties PROVIDED that in no case shall the rate of pension or the amount payable be less than the rate or amount that would have been payable under these Regulations if the whole period of the officer's service with the company had been spent within the said Commonwealth. —

Contributions
in abeyance
during
absence

27. In the event of the illness of any officer or of his receiving leave of absence without pay or on pay less than his current salary his contributions may at the discretion of the Trustees remain in abeyance in whole or in part for and during such period as the Trustees may limit or appoint but such period or such portion (if any) thereof as the Trustees may think fit shall for the purpose of ascertaining the pension or other benefit to which he or his dependants may be entitled hereunder be deducted from the term of his service with the Company unless he shall subsequently pay to the Trustees the contribution or the unpaid part thereof as the case may be for such period together with interest at such rate as the Trustees may determine. —

Arrears of
contributions
to be
accounted for

28. In the event of the death of an officer whose contributions have been allowed to remain in abeyance as provided in Regulation 27 hereof the Trustees shall deduct the amount of the arrears of such contribution and interest as

aforsaid from the amount (if any) payable to his widow or dependants under Regulation 34 hereof.---

PENSIONS AND OTHER BENEFITS

Pension entitlement

29. Any officer who has been in the service of the company for at least fifteen years (the length of service being reckoned in accordance with Regulation 48) and who subsequently to the 30th day of June 1956

- (a) has completed the sixty-fifth year of his age; or
- (b) having completed the sixtieth year of his age has retired from the service of the company with the approval of the Board and the Trustees; or
- (c) has become mentally or physically incapacitated; or
- (d) has retired for any special reason acceptable to the Board and the Trustees and notwithstanding that he shall not have attained the sixtieth year of his age

shall subject to all the terms and conditions of this indenture be entitled on leaving the service of the company to receive an annual pension. Such pension shall be calculated by averaging the yearly salary received by the officer during the last ten years of his employment by the company. Subject to the provisions of Regulations 30 and 31 the amount of such pension shall be such an annual sum as shall bear the same proportion to the amount of his average yearly salary during the last ten years of his employment as aforesaid as the number of completed years and months of his service with the company bears to his age (in years and months) at the date of his leaving the service of the company provided that in no case shall the amount of his pension exceed two-thirds of the annual salary of which the officer was in receipt at the date of his leaving the service of the company. ---

If immediately prior to leaving the service of the company an officer shall have been on leave at a reduced rate of salary owing to sickness not caused by his own misconduct or for some other reason certified by the Board as being a sufficient reason for the purposes of this Regulation then notwithstanding such reduction he shall be deemed for the purposes of this Regulation to have been receiving salary at his full rate during the period of such leave. The Board shall have an absolute discretion to determine whether the reason for an officer being on leave at a reduced rate of salary is a sufficient reason or whether in the case of sickness it was caused by his own misconduct and a certificate of the Board's determination under the hand of the Secretary of the company shall be conclusive. ---

Survivorship pension

30. Any officer who becomes entitled to a pension pursuant to Regulation 29 may on or before the date of leaving the service of the company give notice in

writing to the Trustees that he elects to take a "survivorship pension". A "survivorship pension" means a pension payable to the officer calculated according to the Table set forth in the First Schedule hereto in manner hereinafter provided and after the death of the officer a pension (hereinafter referred to as the "wife's pension") payable to his wife if she survives him during the remainder of her life at the rate nominated by the officer. An officer who elects to take a survivorship pension shall in his notice of election nominate the amount of his wife's pension and the pension to be paid to the officer shall be the pension to which he would have been entitled under Regulation 29 if he had not elected to take a survivorship pension less the appropriate deduction therefrom ascertained from the said Table by reference to the amount nominated by him as his wife's pension and the respective ages of the officer and his wife and less any deduction consequent on the officer having compounded any portion of his pension pursuant to Regulation 31. A wife's pension shall be payable only to the person who was the wife of the officer at the date of his leaving the service of the company and not to any aftertaken wife. If owing to the respective age of the officer or his wife at the date of the officer leaving the service of the company the case of an officer is not covered by the Table set forth in the said First Schedule it shall be referred to an actuary appointed by the Trustees to fix the amount of the pension payable to the officer having regard to the amount nominated by him as his wife's pension and to the principles on which the said Table has been calculated and his decision shall be conclusive and binding on all parties. The amount of his wife's pension nominated by an officer shall be a multiple of £50 and no officer shall nominate as his wife's pension an amount in excess of the amount which in accordance with the said Table (or in a case not covered by the said Table in accordance with the determination of the actuary) would entail the giving up by the officer of one half of the pension to which he would have been entitled under Regulation 29 if he had not elected to take a survivorship pension. An election to take a survivorship pension may not be withdrawn.---

Compounding
portion of
pension for
a lump sum

31. An officer who shall leave the service of the company on or after attaining the sixtieth year of his age and who shall be entitled to a pension hereunder may compound a portion of his pension for a lump sum subject to the following conditions

(a) the officer shall on or before the date of leaving the service of the company give notice in writing to the Trustees of his desire to compound a portion of his pension and of the amount of his pension which he wishes to compound

(b) the officer shall satisfy the trustees that at the date of retirement he is in a normal state of health having regard to his age and the trustees shall have an absolute and uncontrolled discretion to determine what evidence they require as to the state of health of the officer and whether they are satisfied that his state of health is normal

(c) the amount of his pension to be compounded shall not exceed the lesser of One thousand pounds (£1,000) and one half of the annual pension

(d) the lump sum payable to an officer on the compounding of a portion of his pension shall be calculated in accordance with the Table set forth in the Second Schedule hereto or such other Table as may from time to time be prescribed by the trustees on the advice of the actuary and with the approval of the Board.

Increase and
diminution
of pensions

32. (i) If on the actuarial investigation as aforesaid or for any other reason whatsoever it shall appear to the trustees that the pensions or other benefits should be diminished or increased then the trustees shall be at liberty in their absolute and uncontrolled discretion to so diminish or increase from time to time the pensions or benefits and all and singular the provisions hereof shall apply (*mutatis mutandis*) to such decreased or increased pensions or benefits as the case may be.

(ii) The trustees shall be at liberty in their discretion to determine or withhold in whole or in part any pension to become payable as aforesaid to any pensioner who is in any way unfit to receive the same (of which the trustees shall be the sole judges) or they may pay the same or any part thereof to the wife or other dependants of such pensioner in any case where in the opinion of the Trustees it is for any reason undesirable that such pension or any part thereof should be paid to the pensioner.

Minimum
pension

33. From and after the 1st day of July 1948 the minimum pensions to which persons drawing pensions on that date or becoming pensioners thereafter shall be entitled shall be :-

	Minimum Pension
After minimum of 25 years' service	£208 per annum
" " " 30 " "	£234 " "
" " " 35 " "	£247 " "
" " " 40 " "	£260 " "

Provision for
widow and
dependants
where pension-
er dies with-
in five years

34. If a person in receipt of a pension shall die before he shall have received five full years' instalments thereof or before he shall have received by way of pension an amount equal to two and one half times the annual salary of the pensioner computed on the salary he was receiving at the date of leaving the

service of the company whichever is the greater the Trustees shall pay to his widow and his dependants or to any one or more of them to the exclusion of the others or to Trustees on behalf of them or any of them and in such shares and proportions and either in a lump sum or by instalments of such amounts and at such intervals as the Trustees shall in their absolute discretion at any time or from time to time determine such an amount or amounts as together with the instalments of pension (if any) which the pensioner shall already have received shall bring the total up to an amount equal to five years' pension or to an amount equal to two and one half times the annual salary of the pensioner computed on the salary he was receiving at the date of leaving the service of the company whichever is the greater PROVIDED HOWEVER

(a) if the pensioner shall have compounded a portion of his pension pursuant to Regulation 31 then in the application of this Regulation

(1) every reference to the pensioner's pension shall be construed as a reference to the pension he was actually receiving or entitled to receive

(11) there shall be deemed to be inserted after the words "two and one half times the salary of the pensioner computed on the salary he was receiving at the date of leaving the service of the company" (wherever these words appear herein) the words "less any lump sum paid or payable to the pensioner or to his estate pursuant to Regulation 31"

(b) if the pensioner shall leave no widow and no dependants him surviving any sum which would have been payable under this Regulation to any widow or dependants who survived the pensioner shall be paid to his personal representatives

(c) if the pensioner shall leave a widow or a dependant or dependants him surviving and all of such persons shall die before the amount payable to them under this Regulation shall have been fully paid the unpaid portion of the said amount shall be paid to the personal representatives of the pensioner

(d) if the pensioner shall have elected to take a survivorship pension pursuant to Regulation 30 then

(1) in the application of this Regulation every reference to the pensioner's pension shall be construed as a reference to the pension he was actually receiving or entitled to receive

(11) if he shall have left a widow him surviving who shall be entitled to receive a wife's pension the amount payable pursuant to this clause shall be reduced by a sum which bears the same proportion to the amount that would have been payable under this clause if the pensioner had not elected to

take a survivorship pension as the amount of the deduction from the pensioner's pension made under Regulation 30 bears to the pension that would have been payable to the pensioner pursuant to these Regulations if he had not so elected.

If immediately prior to leaving the service of the company an officer shall have been on leave at a reduced salary owing to sickness not caused by his own misconduct or for some other reason certified by the Board as being a sufficient reason for the purposes of this Regulation then notwithstanding such reduction he shall be deemed for the purposes of this Regulation to have been receiving salary at his full rate during the period of such leave. The Board shall have an absolute discretion to determine whether the reason for an officer being on leave at a reduced rate of salary is a sufficient reason or whether in the case of sickness it was caused by his own misconduct and a certificate of the Board's determination under the hand of the Secretary of the company shall be conclusive.

Provision
for widow and
dependants of
officer dying
whilst employed

35. (a) If an officer shall die whilst in the Company's service the Trustees shall pay to his widow and dependants or to any one or more of them to the exclusion of the others or to trustees for or on behalf of them or any of them and in such shares and proportions and at such times and in such manner and either in a lump sum or by instalments of such amounts and at such intervals as the Trustees shall in their absolute discretion think fit an amount equal to two and one half times the annual salary of the officer computed on the salary he was receiving at the date of his death or an amount equal to five times the annual pension to which he would have been entitled under these Regulations had he retired on the date of his death for a reason acceptable to the Board and the Trustees whichever shall be the greater.

If at the time of his death an officer shall have been on leave at a reduced salary owing to sickness not caused by his own misconduct or for some other reason certified by the Board as being a sufficient reason for the purposes of this Regulation then notwithstanding such reduction he shall be deemed for the purposes of this Regulation to have been receiving salary at his full rate during the period of such leave. The Board shall have an absolute discretion to determine whether the reason for an officer being on leave at a reduced rate of salary is a sufficient reason or whether in the case of sickness it was caused by his own misconduct and a certificate of the Board's determination under the hand of the Secretary of the company shall be conclusive.

(b) If the officer shall leave no widow and no dependants him surviving any sum which would have been payable under this Regulation to any widow or dependants who survived the officer shall be paid to his personal representatives.

(c) If the officer shall leave a widow or a dependant or dependants his surviving and all of such persons shall die before the amount payable to them under this Regulation shall have been fully paid the unpaid portion of the said amount shall be paid to the personal representatives of the officer. —

Disablement
or incapacity
decided by
the Trustees

36. Every question as to disablement or incapacity for further service of any officer shall be decided by the Trustees and any pensioner under 60 years of age shall whenever required by the trustees satisfy them by medical certificate or otherwise as they may require that there has been no material change in his condition since the pension first became payable but if the health of any pensioner who has retired from the company's service on account of any infirmity of body or mind becomes restored before he has attained the age of sixty years the Board may require him to resume the duties he was performing at the time of his retirement or to perform any other duties for which in the opinion of the Board he may be qualified at the salary he was receiving at the time of his retirement and if he declines or neglects when called upon to undertake the same he shall forfeit all right to any pension or other benefit hereunder. If he resumes his duties or performs other duties as aforesaid the payment of any pension shall thenceforth be discontinued but in the event of his subsequent retirement he shall subject to the conditions of this Deed be entitled to such pension together with any increase to which he may then have become entitled through his additional length of service and upon his subsequent retirement he shall for the purpose of calculating the pension thereafter to be paid to him be deemed during the period between his first retirement and his subsequent re-employment to have been in receipt of a salary at the rate he was receiving at the date of his first retirement but such period shall not be taken into account in reckoning the length of the officer's service with the company. —

Forfeiture of
benefits

37. In the following circumstances an officer shall not nor shall his widow or dependants be entitled to any or to any further pension or other benefit hereunder :-

(a) if being in receipt of a pension he shall engage in any business enter some service or employment or accept any position which in the opinion of the Board or the Trustees shall or may be prejudicial to the interests of the company;

(b) If he shall become a bankrupt or insolvent debtor within the meaning of any Act of Parliament or shall assign alienate or charge his pension or other right or benefit hereunder or any part thereof or attempt or affect so to do or shall do or suffer anything whereby his pension or other benefits or any part

thereof respectively through his act or default or by operation or process of law may become vested in or payable to some other person or if any other event shall happen whereby he might be wholly or partially deprived of the personal enjoyment of his pension or other benefit PROVIDED HOWEVER that the Trustees may if in their absolute discretion they shall think fit so to do pay all or any part of the pension to or apply the same for the maintenance and personal support of such officer or his wife or dependants (if any) or all or any one or more to the exclusion of the other or others._____

Bankruptcy of
or alienation
by widow

38. In the case of the widow of a pensioner who is entitled to a wife's pension under Regulation 30 if at the date of the pensioner's death or subsequently thereto she shall be or become a bankrupt or insolvent debtor or shall assign alienate or charge her pension or any part thereof or attempt or affect so to do or shall do or suffer anything whereby her pension or any part thereof through any act or default of hers or by operation or process of law may become vested in or payable to any other person or if any other event shall happen whereby she might be wholly or partially deprived of the personal enjoyment of her pension she shall forfeit all right to receive any further payment of her wife's pension PROVIDED that in any such case as aforesaid the Trustees may if in their absolute discretion they shall think fit so to do pay or apply all or any part of the wife's pension for the maintenance and personal support of such widow or may pay the same to any other person for that purpose without seeing to the application thereof._____

Refunds of
contributions

39. (a) In the case of an officer leaving the service of the company through ill-health before he has been in the service of the Company or its predecessors in business for fifteen years the Trustees if satisfied on such evidence as they may require as to the fact of the ill-health shall refund to such officer the amount of his contributions to the Fund with interest thereon at such rate being not less than two and one half per centum per annum as they may determine such interest to be calculated with annual rests as at June 30th of each year.

(b) In the case of an officer voluntarily leaving the service of the Company for any cause other than ill-health or when an officer shall be dismissed or be required to resign from the Company's service the Trustees shall (unless in the opinion of the Board the circumstances antecedent to attendant or consequent on the officer leaving the service do not justify such refund) sanction the refund to such officer of the whole or any part of his contributions to the Fund together with interest thereon at the rate of two and one half per centum per annum such interest to be calculated with annual rests as at June 30th of each year._____

(c) When in the opinion of the Board any officer being dismissed required to resign or voluntarily leaving the service of the Company has committed any defalcation or misfeasance in relation to the Company the Trustees shall (unless in the opinion of the Board the circumstances antecedent to attendant or consequent on the officer leaving the service do not justify such refund) refund (subject to Regulation 40 hereof) to such officer the amount of his contributions to the Fund without interest.---

Officers guilty of fraud, etc.

40. In the event of any officer being guilty of fraud embezzlement wilful neglect or wilful disobedience and being dismissed for the same or being required to resign for the same or resigning voluntarily from the service of the Company to avoid being dismissed for the same then the amount payable to him pursuant to Regulation 39 (c) shall be paid to such officer or his executors or administrators subject to the deduction of all costs and losses (including the costs of any prosecution or civil proceedings which the Board may think necessary) incurred by the Company as a result of or incidental to or arising howsoever out of such fraud embezzlement wilful neglect or wilful disobedience and the amount so deducted shall if required by the Board be paid by the Trustees to the Company.---

Trustees to decide by what instalments benefits payable

41. Without prejudice to anything hereinbefore contained the Trustees shall have an absolute discretion to decide as to how and at what intervals and by what instalments any pension payment or other benefit shall be payable or given and to exercise any of the powers and authorities hereby conferred upon them.---

WAR SERVICE

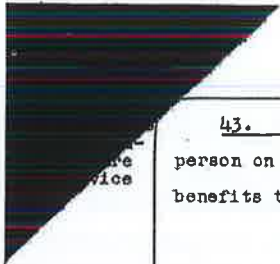
Contributions & pensions benefit provisions where war service

42. Any person engaged in war service shall be liable to contribute to the Fund at the rate and in manner provided in Regulation 25 and the salary deemed to be received by him from the Company and on which his contribution and the Company's contribution to the Fund shall be calculated shall be from time to time

(a) the salary of which he was in receipt at the time of his becoming engaged on war service, or

(b) such other amount as the Board may from time to time determine.

For the purpose of calculating the average yearly salary of a person on war service and any consequent pensions or benefits to him or his widow and dependants the amount referred to in clauses (a) and (b) whichever is applicable shall be deemed to be the salary of the officer during the period of his engagement on war service. For the purposes of these Regulations the period of an officer's engagement on war service shall be reckoned as part of the period of his service with the Company.---



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Determination
as to pension
where War
Service

Arrears of
contributions
where War
Service

War service
provisions to
prevail

War service
powers
additional

43. The Trustees may in their discretion without affecting the status of a person on war service as an officer or his pension benefits and rights or the benefits to his widow and dependants in respect of the Fund

- (1) Reduce the amount of any contribution payable by the officer;
- (2) Suspend or release the payment of his contribution for any period;
- (3) Accept any payment from the Company or any other source as or on account of the contributions of a person on war service.—

44. Notwithstanding this his contribution to the Fund may have been duly paid the Trustees may in their uncontrolled discretion determine that the pension benefits and rights (as the case may be) of a person on war service who is killed dies or is disabled (wholly or partly) by wounds illness or injury and the benefits to his widow and dependants or his personal representatives in respect of the Fund shall be less than those to which he or his widow or dependants or representatives would have been entitled had he remained an officer (not being a person on war service) but in no case shall such benefits be less than those provided in the case of an officer to whom paragraph (a) of Regulation 39 applies. Unless otherwise determined by the Trustees any pension benefits and rights of the person on war service and any benefits to the widow or dependants or personal representatives of such person calculated in accordance with the salary deemed to be received pursuant to Regulation 42 shall be of the same nature as those fixed by these regulations.—

45. If the contributions of any person on war service to the Fund shall be in arrears the pension benefits and rights of any such person or the benefit to his widow or dependants or representatives in respect of the Fund may be reduced in such manner and to such extent or may wholly cease according as the Trustees in their uncontrolled discretion determine.—

46. So far as relates to any person who has been determined by the Board to be a person on war service these provisions shall prevail over any other provisions of the Deed conferring pensions benefits and rights on such person and any benefit on his widow or dependants or representatives and subject to the exercise of any discretion conferred on the Trustees the other provisions of these Regulations shall apply to a person on war service.—

47. The powers and discretions hereby conferred on the Trustees in respect of persons on war service shall be in addition to and not in substitution for or limitation of their powers and discretions otherwise conferred by this Deed.—

COMPUTATION OF SERVICE

prior
establish
of Fund

48. Subject to the provisions of Regulations 19 and 20 and to the proviso hereinafter contained in ascertaining for any of the purposes of these Regulations the number of years during which an officer shall have been in the service of the company or the length or the time of his service with the company any period of his employment by the company prior to the date as on or from which he was admitted as a contributor pursuant to Regulation 17 shall be disregarded PROVIDED that in the case of an officer who was in the employment of the company on the thirty-first day of December 1915 the whole of his period in the employment of the company shall be taken into account.---

Determination
of length of
service

49. If there shall be any doubt or difficulty as to the length of service of any officer the determination of such doubt or difficulty shall rest with the Board whose decision shall be final.---

ALTERATION OF DEED

Alterations
to Deed

50. No alteration to this Deed may be made which may authorize the application or use of any part of the Fund for any purpose other than -

- (a) The provision of pensions and benefits for officers their wives widows or dependants;
- (b) The making of any refund or allowance to officers;
- (c) The payment of the expenses arising out of the management control administration or protection of the Fund;
- (d) Indemnity to the Trustees as hereinafter provided;
- (e) Reimbursement to the Company of any losses of the nature herein specified.---

But subject to this provision the Board by a majority of all the Directors from time to time and at any time by deed with the assent in writing of the majority of the Trustees after all or any of the provisions of this Deed (including the provisions for the appointment and retirement voluntary or compulsory of the Trustees) and may make new provisions to the exclusion of or in addition to all or any of the provisions of this Deed and shall by such deed declare the time retrospective or otherwise when such alterations or new provisions shall come into force. Such alterations and new provisions shall be deemed to be provisions in relation to the Fund of the same validity as if they had been originally contained in this Deed and shall be subject in like manner to be added to altered or modified. The provisions of this Deed and of any future deed are and shall be and shall be

deemed to be regulations in relation to the Fund. —

NOTICES

51. For the purposes hereof any notice to any Trustee or to any person in receipt of any pension or other benefit hereunder or entitled thereto may be given by sending the same through the post in a pre-paid envelope or wrapper addressed to him or her at his or her address appearing in the register. Any notice sent by post shall be deemed to be served at ten of the clock in the morning of :-

- (a) the day following the posting of the envelope or wrapper if the address is in South Australia;
- (b) the seventh day following such posting if the address is elsewhere in Australia;
- (c) the fourteenth day following such posting if the address is outside Australia. All notices posted to an address outside Australia shall be posted by air mail. —

WINDING UP OF FUND

Distribution
of Fund in
certain events

52. If an order be made by a competent Court or tribunal having jurisdiction in that behalf or any effective resolution shall be passed for the winding up of the Company or if from any cause it shall at any time hereafter be unanimously decided in writing by the Board and the Trustees that the scheme embodied in this Deed is impracticable or that it is inexpedient to carry out that scheme or that it has failed in accomplishing its objects and any such writing as aforesaid shall be conclusive evidence that the said scheme is impracticable or (as the decision may be) inexpedient to be carried out or has failed as aforesaid the Fund shall be realised and shall be distributed amongst such persons (including the Company) in such manner and in such proportions or shall otherwise be disposed of either wholly or partially as shall be determined to be just and equitable by an Arbitrator to be appointed as hereinafter provided and accordingly such person shall thereupon be appointed arbitrator as the Board and the Trustees shall unanimously appoint and if such unanimous appointment is not made within three calendar months after such order or effective resolution as aforesaid has been made or passed or within three calendar months after such decision then the majority of the Trustees and of the Board may jointly request in writing the President for the time being of the Adelaide Chamber of Commerce to appoint such arbitrator and such President shall have authority to appoint him accordingly. If such President shall not within 28 days after such request appoint an arbitrator pursuant thereto then these presents shall be deemed to be a submission to arbitration within the provisions of the "Arbitration Act 1891" or any statutory

<p>Arbitrator's decision final</p>	<p>modification thereof and in any event the arbitrator from time to time acting under these presents shall have all the powers conferred on arbitrators by the said Act or any such modification thereof.—</p> <p>53. The determination of the Arbitrator appointed under the foregoing clause shall be absolute and final and all the costs and charges and expenses of and incidental to the realisation and disposal of the Fund including the remuneration of the Arbitrator shall be payable by the Trustees out of the Fund.—</p>
<p>Officers not relieved from providing for dependants</p>	<p style="text-align: center;"><u>GENERAL</u></p> <p>54. The Fund is to be regarded primarily as a Fund to provide pensions for officers upon their retirement from the service of the Company and is not to be considered in any way as relieving officers from their obligations to make such provision for those dependent upon them as their means will permit nor to give any officer any right in respect of the Fund except as is herein expressly provided.—</p>
<p>Opinion of Board of Directors to prevail</p>	<p>55. If the opinions of the Board and of the Trustees shall be in conflict the opinion of the Board shall prevail.—</p>
<p>Powers of Board Directors unaffected,</p>	<p>56. Nothing in this Deed shall be deemed in any way to affect prejudice or alter the powers of the Company or the Board with regard to the dismissal or remuneration of or any dealings whatsoever with any of its employees nor shall anything herein be construed as rendering the Company nor shall the Company be in anywise liable or responsible for anything whatsoever which may be done or omitted in the premises by the Company or the Board or any of its employees or any other person.—</p>
<p>Construction and interpretation</p>	<p>57. If there shall arise any dispute or doubt as to the construction or interpretation of any of the provisions of this Deed or as to the rights of any person or persons hereunder the decision of such dispute or doubt shall be wholly with the Trustees who may nevertheless in their discretion allow an appeal to the Board whose decision and determination of such appeal shall be final and conclusive.—</p>
<p>Inspection of Deeds</p>	<p>58. This Deed and any Deeds amending the same shall be deposited and kept at the Head Office of the Company and shall be open at reasonable times to inspection by all persons affected thereby. A copy of this Deed and any Deeds amending the same shall be kept at the main office of the Company in each country or State of the Commonwealth in which the company maintains an office and such copies shall be open at reasonable times to inspection by all persons affected thereby.—</p>

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59. These Regulations shall come into operation and shall be deemed to have come into operation on the first day of July 1956.---

60. For the purpose of this Deed the Company shall be deemed to have come into existence on the fourth day of July 1888.---

61. The authorities powers and discretions of the Board conferred by these Regulations including the power of appointing Trustees and terminating the office of a Trustee may be exercised at meetings of the Board by a quorum of the Directors (as determined by the Articles of Association of the Company for the time being) except so far as concerns the altering and adding new provisions to the aforesaid Deed and except where it is expressly provided that any such authority power or discretion shall be exercised unanimously.---

62. All questions which may come before the Board shall be decided by the votes of the majority of the Directors present.---

63. All meetings proceedings and resolutions (including the votes of Directors and the casting vote of the Chairman of Directors) shall be regulated in the same manner as is provided in the Articles of Association for the time being of the Company.---

64. Without prejudice to any other method of effecting the same purpose an deed appointment document or writing which shall require the execution or signature of the Board or which the Board shall or may consider expedient or advisable to be executed or signed by the Board pursuant to the provisions of these presents shall be sufficiently and conclusively executed or signed by the Board if given under the seal of the Company pursuant to a resolution of a quorum of Directors and it shall not be necessary for the Directors or any of them to be themselves parties to or to execute or sign other than those testifying by their signatures the affixing of the seal to any such deed appointment document or writing.---

65. All acts heretofore done or hereafter to be done by the Board or any person purporting to be appointed as a Trustee notwithstanding that there may have been or may be some defect in or irregularity in the appointment of any member of the Board or any Trustee or that he they or any of them were disqualified or not entitled to act shall be as valid as if any such person or persons had been duly appointed to act and was or were duly qualified or entitled to act.---

66. The marginal notes are for convenience of reference only and no regard is to be paid to them in the interpretation of these presents.---

FIRST SCHEDULE

TABLE

Showing the annual amount of the husband's pension which must be given up in exchange for a reversionary pension of £100 per annum payable to the widow.

Attained age of Present Wife	Attained age of husband on retirement -						
	<u>60</u>	<u>61</u>	<u>62</u>	<u>63</u>	<u>64</u>	<u>65</u>	<u>66</u>
55	52. 1						
56	49.17	53.13					
57	47.14	51. 8	55. 5				
58	45.11	49. 1	52.17	57. -			
59	43. 8	46.15	50. 9	54. 6	58.15		
60	41. 5	44.10	48. -	51.14	55.18	60. 5	
61	39. 3	42. 6	45.11	49. 2	53. -	57. 6	61.16
62	37. 2	40. 2	43. 3	46.12	50. 6	54. 6	58.15
63	35. 3	37.17	40.16	44. 4	47.14	51. 8	55.12
64	33. 5	35.15	38.11	41.14	45. 2	48.13	52.11
65	31. 7	33.15	36. 8	39. 6	42.11	46. -	49.14
66		31.17	34. 7	37. 2	40. -	43. 7	46.18
67			32. 6	34.18	37.13	40.16	44. 4
68				32.14	35. 9	38. 5	41.10
69					33. 5	35.17	38.16
70						33.10	36. 5
71							33.18

SECOND SCHEDULE

TABLE

Showing lump sum payable on compounding £100 per annum of pension.

Age on Retirement	Lump sum per £100 of pension
60 years exactly	£945
61 " "	£918
62 " "	£892
63 " "	£866
64 " "	£841
65 " "	£815
66 " "	£790

The amount between each age will be arrived at proportionately.

IN WITNESS whereof the parties hereto have executed these presents this

sixth day of May One thousand nine hundred and fifty-eight.

SIGNED SEALED AND DELIVERED by the said ALEXANDER JOHN MELROSE in the presence of: J.E. Dobbs

Alex. J. Melrose

SIGNED SEALED AND DELIVERED by the said COLLIER ROBERT CUDMORE in the presence of: J.E. Dobbs

R. Cudmore

SIGNED SEALED AND DELIVERED by the said FREDERICK LLOYD DUMAS in the presence of: Rhoda Polglase

F. L. Dumas

SIGNED SEALED AND DELIVERED by the said TOM ELDER BARR SMITH in the presence of: J.E. Dobbs

Tom E. Barr Smith

SIGNED SEALED AND DELIVERED by the said IAN RICHARD MCTAGGART in the presence of: J.E. Dobbs

I. R. M. Maggart

SIGNED SEALED AND DELIVERED by the said ALFRED MOXON SIMPSON in the presence of: J.E. Dobbs

A. M. Simpson

SIGNED SEALED AND DELIVERED by the said HENRY NORMAN GILES in the presence of: J.E. Dobbs

H. N. Giles

SIGNED SEALED AND DELIVERED by the said NORMAN SMITH YOUNG in the presence of: J.E. Dobbs

N. S. Young

SIGNED SEALED AND DELIVERED by the said ALEXANDER JOHN MELROSE in the presence of: J.E. Dobbs

Alex. J. Melrose

SIGNED SEALED AND DELIVERED by the said FREDERICK LLOYD DUMAS in the presence of: Rhoda Polglase

F. L. Dumas

SIGNED SEALED AND DELIVERED by the said TOM ELDER BARR SMITH in the presence of: J.E. Dobbs

Tom E. Barr Smith

SIGNED SEALED AND DELIVERED by the said REGINALD WALTER SEEDSMAN in the presence of: J.E. Dobbs

R. W. Seedman