

Australian Postal Corporation
PostSuper Pty Ltd

Deed of Modification Number 17

Australia Post Superannuation Scheme

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Contents

1	Power to Amend the Trust Deed	2
2	Definitions and Interpretation	2
3	Confirmation of Trust Deed	2
4	Governing Law and Jurisdiction	2
5	Counterparts	3
Schedule 1		4
	MySuper Amendments	4
Schedule 2		9
	Amendments to allow increased death benefit for anti-detriment payments	9

This Deed is made on *31 AUGUST 2016*

Parties

- 1 **Australian Postal Corporation** of Level 18, 111 Bourke Street, Melbourne, Victoria (the **Corporation**).
- 2 **PostSuper Pty Ltd** (ABN 85 064 225 841) of Level 18, 111 Bourke Street, Melbourne, Victoria (the **Trustee**).

Recitals

A By a Trust Deed dated 19 June 1990 (the **Trust Deed**) a superannuation scheme known as the **Australia Post Superannuation Scheme** (the **Scheme**) was established.

B Clause 12(a) of the Trust Deed provides, subject to certain restrictions set out in Clause 12(e), that:

"(a) *The Corporation may after consultation with the Australian Council of Trade Unions at any time and from time to time by deed or resolution of the directors of the Corporation alter, add to or repeal all or any of the provisions contained in [the Trust] Deed or the Rules, including the provisions of this Clause, to the extent only that:*

- (i) *such alteration, addition or repeal relates to the contributions that an Employer will, after such alteration, addition or repeal comes into force, be required or permitted to pay to the Fund;*
- (ii) *such alteration, addition or repeal relates solely to termination of the Scheme; or*
- (iii) *the circumstances in which such alteration, addition or repeal is made are permitted under Superannuation Law,*

and otherwise the Corporation may after consultation with the Australian Council of Trade Unions and with the consent of the Trustee at any time and from time to time by deed or resolution of the directors of the Corporation, alter, add to or repeal all or any of the provisions contained in [the Trust] Deed or the Rules, including the provisions of this Clause ."

C Clause 12(e) of the Trust Deed provides as follows:

"(e) *No alteration, additional or repeal as aforesaid shall be made unless:*

- (i) *if the alteration, addition or repeal would have the effect of permitting a natural person or natural persons to be appointed as trustee or trustees of the Scheme, after the alteration, addition or repeal became effective the Scheme would have as its sole or primary purpose the provision of old age pensions within the meaning of paragraph 51(xxiii) of the Constitution of the Commonwealth of Australia; and*
- (ii) *all relevant provisions of the Prescribed Requirements are satisfied; and*
- (iii) *the Actuary (whose decisions shall be final) determines that such alteration, addition or repeal shall not reduce the amount of the benefits presently or prospectively payable in respect of any Member or Beneficiary to the extent that such benefits have accrued in respect of the period up to the date the alteration, addition or repeal is effected; or*
- (iv) *such alteration, addition or repeal is approved by the Regulator in writing; or*
- (v) *such alteration, addition or repeal is approved in writing by each Member or Beneficiary whose benefits are reduced in the manner anticipated by paragraph (iii) hereof and by such other person or persons (if any) whose approval or consent is required under Superannuation Law."*

- D The Corporation and the Trustee have agreed to amend the Trust Deed in the manner described in the Schedule.
- E The Corporation has consulted with the Australian Council of Trade Unions in a manner required by Clause 12(f) of the Trust Deed.
- F The Corporation and the Trustee are satisfied that the Prescribed Requirements referred to in Clause 12(e)(ii) are satisfied in relation to the proposed alterations, additions and repeals set out in this Deed.
- G The Actuary has determined that the proposed alterations, additions and repeals set out in this Deed shall not reduce the amount of any benefits presently or prospectively payable in respect of any Member or Beneficiary to the extent that such benefits have accrued in respect of the period up to the date of this Deed.

It is agreed as follows:

1 Power to Amend the Trust Deed

Pursuant to the power conferred on the Corporation and the Trustee under Clause 12 of the Trust Deed and all other powers enabling them so to do, the Corporation and the Trustee **HEREBY ALTER, ADD TO AND REPEAL** the provisions of the Trust Deed as provided in Schedules 1 and 2 with effect on and from:

- (a) in respect of the amendments contemplated in Schedule 1, the date the Trustee receives notice in writing from the Australian Prudential Regulation Authority in accordance with section 29TD of the Superannuation Industry (Supervision) Act 1993 that the Trustee is authorised to offer a MySuper product; and
- (b) in respect of the amendments contemplated in Schedule 2, the date of execution of this Deed,

(in each case, the *Effective Date*).

2 Definitions and Interpretation

- (a) Words which are defined in the Trust Deed and which are used in this Deed have the same meaning in this Deed as in the Trust Deed, unless the context requires otherwise.
- (b) The provisions of Clause 1 of the Trust Deed form part of this Deed as if set out at length in this Deed.

3 Confirmation of Trust Deed

Except as specifically amended by this Deed, all terms and conditions of the Trust Deed remain in full force and effect. The Trust Deed as amended by this Deed shall, with effect on and from the date of execution of this Deed or the Effective Date of the amendments, if later, be read as a single integrated document incorporating the amendments effected by this Deed.

4 Governing Law and Jurisdiction

This Deed is governed by the laws of Victoria. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction in connection with matters concerning this Deed.

5 Counterparts

This Deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

Schedule 1

MySuper Amendments

1. Amendment to Clause 2 of the Trust Deed

The Trust Deed shall be amended by inserting the following definitions in Clause 2 in the correct alphabetical order:

Accrued Default Amount has the meaning given to it in SIS.

Fee Rules has the meaning given to it in SIS.

General Fee Rules has the meaning given to it in SIS.

MySuper Interest means in relation to a Member, the Member's interest in the Scheme that is attributable to a MySuper Product offered by the Trustee.

MySuper Law means the Statutory Requirements and Prudential Standards with which this Deed, the Rules, the Trustee or the Scheme must comply or satisfy (or with which or which in the reasonable opinion of the Trustee this Deed, the Rules, the Trustee or the Scheme should comply) in relation to a MySuper Product, a MySuper Member or a MySuper Interest.

MySuper Member means a Member who, for the time being, holds an interest in the Scheme that is attributable to a MySuper Product.

MySuper Product means a beneficial interest in the Scheme which is governed by Clause 11B.

Prudential Standards means prudential standards made by the Australian Prudential Regulation Authority under SIS.

Temporary Incapacity has the meaning given to it in SIS .

Terminal Medical Condition has the meaning given to it in SIS.

2. Addition of Clause 11B to the Trust Deed

The Trust Deed shall be amended by inserting the following as Clause 11B:

11B. MySuper Provisions

11B.1 Authority to offer a MySuper Product

- (a) The Trustee is authorised to offer a MySuper Product under MySuper Law.
- (b) The Trustee must comply with each requirement of MySuper Law it is required to comply with, and may comply with any requirement of MySuper Law which it is permitted but not required to comply with, in relation to each Member who is a MySuper Member in relation to their MySuper Interest in the Scheme.
- (c) The Trustee has power to adjust, in such manner as it thinks fit, the operation of any provision of this Trust Deed or the Rules otherwise

applicable to a MySuper Member in relation to their MySuper Interest, which in the absence of adjustment would or may in the opinion of the Trustee cause this Trust Deed, the Rules, the Trustee, or the Scheme to be in breach of, or fail to comply with or satisfy, MySuper Law.

- (d) It is the intention that a MySuper Interest will be held, subject to this Trust Deed and the Rules otherwise applicable, as adjusted to comply with MySuper Law.

11B.2 MySuper Members

- (a) This Clause applies in respect of any MySuper Product or MySuper Interest offered and/or provided by the Trustee, and to the membership of any person who holds, or is to hold, a MySuper Interest in the Scheme, for so long as that person holds a MySuper Interest in the Scheme.
- (b) For the avoidance of doubt, the provisions of this Deed or the Rules relevant to a Member based on their particular type of membership shall continue to apply in full, except to the extent of any inconsistency in respect of a MySuper Interest of a MySuper Member.

11B.3 MySuper Contributions

Subject to Clause 11B.9:

- (a) the Trustee:
 - (i) must accept contributions made by, or on behalf of, a MySuper Member in respect of their MySuper Interest to the extent required by MySuper Law; and
 - (ii) may accept any other contributions made by, or on behalf of, a MySuper Member in accordance with arrangements made by the Trustee with the MySuper Member and/or the Employer;
- (b) a MySuper Member:
 - (i) may, but is not required to, contribute in respect of their MySuper Interest; and
 - (ii) who makes contributions in respect of their MySuper Interest must comply with any terms and conditions set by the Trustee; and
- (c) a limitation on the source or kind of contributions made by or on behalf of Members who hold a MySuper Interest is permitted for the purposes of this clause if:
 - (i) the limitation is of a prescribed kind under MySuper Law; or
 - (ii) the limitation is imposed by or under the general law or another law of the Commonwealth.

11B.4 MySuper Insurance

- (a) The Trustee must offer and provide the following insured benefits for each MySuper Member if, and to the extent, required under, and otherwise in accordance with, MySuper Law:
 - (i) a Total and Permanent Disablement benefit;
 - (ii) a death benefit; and

- (iii) an insured benefit that is payable only in any other circumstances required under MySuper Law.
- (b) The Trustee may offer and provide for any MySuper Member any other insured benefit it is permitted, but not required, to provide to a MySuper Member under MySuper Law (including, without limitation, benefits payable in relation to a Member upon suffering a Terminal Medical Condition or Temporary Incapacity) in accordance with terms and conditions set by the Trustee having regard to the applicable requirements of MySuper Law.
- (c) The Trustee must comply with the requirements applicable to insured benefits under MySuper Law in relation to the offering, the provision and the opting out of insured benefits in respect of MySuper Members.

11B.5 MySuper Investments

- (a) The Trustee must exercise its investment powers to invest the assets of the Scheme attributable to MySuper Interests in a single diversified investment strategy that may form part of one or more of the Sub-funds.
- (b) For the purpose of exercising its powers under the Rules in relation to attributing amounts to MySuper Members in relation to their MySuper Interest held for MySuper Members, the Trustee:
 - (i) must not stream gains or losses that relate to any assets held for MySuper Members to only some MySuper Members; and
 - (ii) must ensure that the same process is adopted in attributing amounts to MySuper Members,
 except to the extent permitted under MySuper Law.

11B.6 Fees for MySuper Members

Notwithstanding any other provision of this Trust Deed or the Rules, the Trustee must comply with the General Fee Rules, and the Fee Rules in relation to fees charged to MySuper Interests.

11B.7 Restrictions on Dealing with MySuper Investments

Notwithstanding any other provision of this Deed or the Rules, the Trustee must not:

- (a) pay, rollover or transfer all or any part of a MySuper Member's MySuper Interest; or
- (b) pay all or any part of a MySuper Interest to or in relation to a MySuper Member in the form of a pension,

except to the extent permitted under MySuper Law.

11B.8 MySuper Rules

The Trustee may from time to time prescribe rules (*MySuper Rules*) relating to MySuper Products or MySuper Interests under the Scheme and shall have power to amend, delete or revoke all or any MySuper Rules.

11B.9 Characteristics of a MySuper Product

- (a) Notwithstanding any other provision of this Trust Deed or the Rules, any MySuper Product offered and/or provided by the Trustee under this Trust Deed must satisfy the following requirements:

- (i) a single diversified investment strategy is to be adopted in relation to assets of the Scheme, to the extent that they are attributed to the MySuper Product;
- (ii) all Members who hold a MySuper Interest are entitled to access the same options, benefits and facilities except to the extent that a benefit is provided by taking out risk insurance;
- (iii) amounts are attributed to Members in relation to their MySuper Interest in a way that does not stream gains or losses that relate to any assets of the Scheme to only some of those Members, except to the extent permitted under a lifecycle exception (as defined below);
- (iv) the same process is to be adopted in attributing amounts to Members in relation to their MySuper Interest, except to the extent that a different process is necessary to allow for fee subsidisation by Employers;
- (v) if fee subsidisation by Employers is permitted, that subsidisation does not favour one Member who holds a MySuper Interest and is an employee of a subsidising employer over another such Member who is an employee of that Employer;
- (vi) the only limitations imposed on the source or kind of contributions made by or on behalf of persons who hold a MySuper Interest are those permitted under this clause;
- (vii) a MySuper Interest cannot be replaced with a beneficial interest of another class in the Scheme, unless:
 - (A) the person who holds the interest consents in writing to that replacement no more than 30 days before it occurs; or
 - (B) the person who holds the MySuper Interest has died and the MySuper Interest is replaced with a beneficial interest of another class in the Scheme of a kind and in the circumstances as permitted under MySuper Law;
- (viii) a MySuper Interest (the *old interest*) cannot be replaced with a beneficial interest (the *new interest*) in another superannuation entity unless:
 - (A) the replacement is permitted, or is required, under a law of the Commonwealth; or
 - (B) the person who holds the old interest consents in writing to the replacement with the new interest no more than 30 days before it occurs;
- (ix) to the extent that assets of the Scheme are attributed to MySuper Interests, a pension is not payable out of those assets by the Trustee on the satisfaction of a condition of release of benefits specified in a Standard made under section 31(2)(h) of SIS by a person who holds a MySuper Interest, unless the payment is derived from a benefit of the kind mentioned in section 62(1)(b)(ii) of SIS provided to the Scheme by an Insurer;

- (x) no Member who holds a MySuper Interest is precluded from holding a beneficial interest of another class in the Scheme because of that fact; and
 - (xi) no Member is precluded from holding a MySuper Interest because the Member holds a beneficial interest of another class in the Scheme.
- (b) A **lifecycle exception** is a rule under this Deed that allows gains and losses from different classes of asset of the Scheme to be streamed to different sub-classes of the Members of the Scheme who hold a MySuper Interest:
- (i) on the basis, and only on the basis, of the age of those Members;
 - (ii) on the basis of the age of those Members and other prescribed factors; or
 - (iii) on the basis of the age of those Members and other prescribed factors in prescribed circumstances.

3. Amendment to Clause 11.9 of the Trust Deed

The following is inserted in Clause 11.9:

- (c) Without limiting the generality of clause 11.9(a) and notwithstanding any other provision of this Deed or the Rules, where the Trustee has entered into (or sought to enter into) an insurance arrangement to provide some or all of the benefit payable from the Fund to or in respect of a Member who has benefits provided under Rule 8 or Rule 10 and in respect of benefits payable to that Member under Rule 12 (but only to the extent those benefits relate to their status as Members under Rule 8 or Rule 10):
 - (i) the payment (or otherwise) of the relevant part of that benefit will be determined solely by the terms of the applicable policy of insurance (if any); and
 - (ii) the amount payable in respect of the relevant part of the benefit will be limited to the amount actually received by the Trustee in respect of the policy of insurance (if any).

Schedule 2

Amendments to allow increased death benefit for anti-detriment payments

1 Amendment to Schedule 1 of the Trust Deed

The following is inserted as Rule 13 of Schedule 1 to the Trust Deed:

13. Increased Death Benefit for Anti-detriment Payments

- (a) Subject to Rule 13(b), where a Member dies on or after the date of execution of Deed of Modification No 17 relating to the Scheme and a lump sum benefit in respect of that Member is paid by the Trustee to a Spouse, former Spouse or a Child of the deceased Member, the lump sum benefit payable in respect of the Member may be increased by an amount determined by the Trustee, having regard to the advice of the Actuary, having regard to the amount (the **Tax Saving Amount**) the Scheme would have paid had no tax been payable on amounts included in the assessable income of the Scheme under Subclause 295-C of the Tax Act in respect of the lump sum benefit paid in respect of that Member.
- (b) The Trustee shall not pay the Tax Saving Amount referred to in Rule 13(a) unless the Trustee is reasonably satisfied that the Scheme will be allowed a deduction for that amount under the Tax Act.

Executed and Delivered as a deed in Melbourne.

Corporation

Signed Sealed and Delivered on behalf of Australian Postal Corporation by an authorised representative in the presence of:

Witness Signature
KATRINA FIELD.
Print Name

Authorised Representative Signature
AHMED FAHOUR
Print Name

Trustee

The Common Seal of PostSuper Pty Ltd was duly affixed in the presence of:

Director Signature
JAMES MARSHALL
Print Name

Director/Secretary Signature
MICHAEL TENARE
Print Name

