

Deed of Modification
Number 7

Australian Postal Corporation
(the *Corporation*)

PostSuper Pty Ltd
(the *Trustee*)

AUSTRALIA POST SUPERANNUATION SCHEME
MISCELLANEOUS AMENDMENTS

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Deed of Modification
Number 7

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Date

23 DECEMBER 2005

Parties

1. Australian Postal Corporation of 321 Exhibition Street, Melbourne, Victoria (the *Corporation*); and
2. PostSuper Pty Ltd (ACN 064 225 841) of 321 Exhibition Street, Melbourne, Victoria (the *Trustee*).

Recitals

A By a Trust Deed dated 19 June 1990 as amended from time to time (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 order to:

- (a) reflect changes to the laws which apply in respect of complying superannuation funds and introduction of the Corporations Act to replace the Corporations Law;
- (b) reflect the Trustee having taken account of the increase to 9% from 1 July 2002, in the employer support required in order for the Employers to avoid liability for the superannuation guarantee charge;
- (c) reflect amendments to the Family Law Act permitting splitting of benefits;
- (d) reflect the introduction of Government co-contributions; and
- (e) reflect changes in Superannuation Law relating to dependants, access to benefits and pension benefits which can be provided from complying superannuation funds.

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 or are otherwise permitted by Superannuation Law.

- 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. Amendments

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 the Schedule with effect on and from *23 DECEMBER 2005* and the Trust Deed shall be read on and from those dates in accordance with the alterations, additions and repeals effected by this Deed.

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, 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

Amendments

1. Clause 2 is amended:
 - (a) by replacing the definitions of "*Corporations Law*" with the following in alphabetical order:

"*Corporations Act* means the *Corporations Act 2001* of the Commonwealth of Australia."; and
 - (b) by replacing the definition of Dependant with the following definition:

"*Dependant* means in relation to a Member or Beneficiary:

 - (a) the Spouse or Child of the Member or Beneficiary;
 - (b) a person in relation to whom the Member or Beneficiary has an interdependency relationship (within the meaning of Superannuation Law) at the time or his or her death; and
 - (c) any other person whom in the opinion of the Trustee is, or in the case of a deceased Member or Beneficiary was at the time of his or her death, in any way dependent on the Member or Beneficiary.";
 - (c) by inserting, in alphabetical order, the following definition:

"*Family Law Act* means the *Family Law Act 1975* of the Commonwealth of Australia.";
 - (d) by replacing the definition of "*Superannuation Law*" with the following:

"*Superannuation Law* means Superannuation Requirements in any of:

 - (a) SIS;
 - (b) the Superannuation Entities (Taxation) Act 1993;
 - (c) the Tax Act;
 - (d) the Superannuation Charge Laws of the Commonwealth of Australia;
 - (e) the Corporations Act;
 - (f) the Family Law Act;
 - (g) any other present or future law of the Commonwealth of Australia or any State or Territory of it which the Trustee with the approval of the Corporation determines to be a Superannuation Law for the purposes of this Deed;
 - (h) regulations and statutory instruments made or issued under any of the acts specified in paragraphs (a) to (g) (inclusive) and all other requirements, whether legislative or otherwise, including (without limitation):

- (i) any administrative guidelines, rulings or determinations made or laid down by a Superannuation Authority; and
 - (ii) statements by the government of the Commonwealth of Australia or any State or Territory (as the case may be) advising changes and proposed changes to Superannuation Law; and
 - (i) a statutory instrument which replaces any of the acts specified in paragraphs (a) to (g) (inclusive) or regulations specified in paragraph (h), or has the same effect, in whole or in part (whether or not passed or approved by the same legislative or other relevant authority and whether or not incorporating or adopting any law previously in force).”;
 - (e) by adding “as a Full Member” after “Membership” where first appearing in subparagraphs (a)(v)(A) and (B) of the definition of “*Accrued Retirement Benefit*”; and
 - (f) by amending the definition of “*Accrued Statutory Benefit*” as follows:
 - (i) replacing “where the Member did not contribute to the Scheme” with “as a Class A Statutory Benefit Member or Class B Statutory Benefit Member” in paragraph (c);
 - (ii) deleting “and” at the end of paragraph (g);
 - (iii) replacing “then” with “than” in paragraph (h) and replacing “,” with “; and” at the end of paragraph (h);
 - (iv) inserting the following as paragraph (i):
 - “(i) 1% of the Member’s Final Average Salary for each year (and pro rata for each day any part of a period is less than a complete year) of Membership as a Class A Statutory Benefit Member from 1 July 2002.”;
 - (g) by replacing the definition of *Tax Act* with:

“*Tax Act* means the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997* of the Commonwealth of Australia and includes any regulations prescribed thereunder.”.
2. All references to “Corporations Law” throughout the Deed are replaced with “Corporations Act” wherever appearing.
3. Clause 10.1 is amended by adding the following as 10.1(f):
- “(f) Subject to Superannuation Law, the Trustee shall with the approval of the Corporation and subject to such conditions as it thinks fit have power to accept into the Fund in respect of a Member amounts transferred from the trustee or responsible authority of an Approved Arrangement.”.
4. Clause 10.2 is amended by:
- (a) redesignating paragraphs (b) and (c) as paragraphs (c) and (d) respectively;
 - (b) inserting the following as paragraph (b):

- “(b) The Trustee shall have power to transfer all or part of a Member’s interest in the Fund in accordance with the relevant requirements of Superannuation Law.”; and
 - (c) replacing the reference to “paragraph (a) hereof” in paragraphs (c) and (d) with “paragraphs (a) or (b) hereof”.
- 5. The following is inserted as Clause 11A:

11A Family Law Provisions

11A.1 Benefit splitting and flagging arrangements

Subject to Clause 11A.2, this Clause 11A will apply in respect of a Member and their Spouse if they are (or have been) legally married to each other and:

- (a) a superannuation agreement (which provides for a payment flag or a payment split) or a flag lifting agreement has been entered into by the Member and their Spouse and such agreement has taken effect; or
- (b) a splitting order or a flagging order has been made by a court of competent jurisdiction in respect of the Member and their Spouse.

11A.2 Trustee may require Member and Spouse to provide details

A Member and/or their Spouse must provide such information, declarations, proofs, documents and payments as the Trustee may require under Superannuation Law. The Trustee may determine that this Clause 11A will not apply in respect of a Member and their Spouse if the requirements of this Clause 11A.2 have not been complied with to the satisfaction of the Trustee.

11A.3 Definitions

Terms used in this Clause 11A have the same meanings as they do under Superannuation Law.

11A.4 Establishment of accounts

- (a) The Trustee may establish an account in respect of the Spouse of a Member under Rule 10. If the Trustee has previously established an account in respect of the Spouse under Rule 10, the Trustee may credit or debit amounts to that account for the purposes of this Clause 11A.
- (b) The following amounts may be credited to an account maintained in respect of a Spouse:
 - (i) any amount which becomes payable (but which has not yet been paid) to or in respect of the Spouse pursuant to any relevant superannuation agreement, flag lifting agreement or splitting order; and
 - (ii) any amount representing the entitlement of the Spouse under a relevant superannuation agreement, flag lifting agreement or splitting order,

in addition to any amounts to be credited pursuant to Rule 10.

- (c) An account maintained in respect of a Spouse may be debited with the fees, costs or expenses (if any) determined by the Trustee under this Clause 11A in addition to any amounts to be debited pursuant to Rule 10.

11A.5 Cessation of benefits

Notwithstanding any other provision of this Deed, the Trustee is not required to pay any amount in respect of a Member if any part of that amount is a splittable payment which is subject to a flagging order or a payment flag. The Trustee will deal with such amounts in accordance with, and has power to take such steps as may be required by, this Clause 11A and Superannuation Law.

11A.6 Calculation of benefits

The Trustee may adjust the benefits payable in respect of a Member, and may calculate the amounts payable in respect of their Spouse, in accordance with any relevant superannuation agreement, flag lifting agreement, court order and Superannuation Law. The Trustee has power to pay such adjusted benefits and calculated amounts or to credit those benefits and amounts to such accounts as may be determined by the Trustee.

11A.7 Commutation

Notwithstanding any other provision of this Deed, the Trustee may at any time commute a pension payable in respect of a Member in whole or in part in circumstances where such commutation is expressly or impliedly required under Superannuation Law on such basis as the Trustee thinks fit.

11A.8 Splitting interest in the growth phase and allocated pensions

- (a) The Trustee may maintain an account in respect of a Spouse for the purposes of splitting any interest of the Member in the Scheme which is in the growth phase or which is being paid as an allocated pension.
- (b) The Trustee may credit to the account referred to in paragraph (a) an amount corresponding to the Spouse's entitlement in respect of the Member's interest in the Scheme (less any fees, costs or expenses charged by the Trustee). Such amount will be determined on a basis determined by the Trustee which is in accordance with the relevant superannuation agreement, flag lifting agreement or court order and Superannuation Law.
- (c) The Trustee may make such adjustments and take such steps as may be necessary or desirable to reduce the Member's interest in the Scheme by the amount of the Spouse's entitlement calculated under paragraph (b). Such adjustments may be made on a basis determined by the Trustee with the approval of the Actuary which is not inconsistent with the relevant superannuation agreement, flag lifting agreement or splitting order and Superannuation Law.
- (d) Subject to Superannuation Law, the Trustee may determine the preserved, unrestricted non-preserved and restricted non-preserved components of the benefits of the Member and their Spouse in the Scheme.

11A.9 Provision of information

The Trustee may:

- (a) provide the Member and/or their Spouse with information relating to the benefits and interests of the Member and their Spouse; and
- (b) require any fees or costs to be paid in connection with, and prior to, the provision of such information,

in accordance with Superannuation Law.

11A.10 Fees, costs and expenses

Subject to Superannuation Law, the Trustee may in its discretion determine that fees, costs or expenses shall be paid or charged in respect of costs and expenses incurred in connection with the application and administration of this Clause 11A. Any fees, costs or expenses shall, subject to Superannuation Law, be paid or charged to such account of the Member and/or their Spouse and on such basis as determined by the Trustee.

11A.11 Transfer of benefits

If a Spouse is a Member, the Trustee may transfer the balance of an account maintained in respect of the person to such other account as may be maintained by the Trustee in respect of the person as the Trustee may determine.

11A.12 Rollover

The Trustee may, in accordance with Superannuation Law, transfer or rollover to an Approved Arrangement:

- (a) the credit balance of an account maintained in respect of a Spouse; or
- (b) if an account has not yet been established in respect of the Spouse, any amount which would constitute the credit balance if there were to be no transfer or rollover and an account was established in respect of the Spouse,

after the deduction of all relevant costs and expenses (if any).

11A.13 Disclosure upon opening account

If an account is established in respect of a Spouse under this Clause 11A, the Trustee will provide the Spouse with such information and disclosure documents relating to the Scheme and their account as may be required under Superannuation Law.

11A.14 Status of Spouse

A Spouse in respect of whom an account is maintained by the Trustee under this Clause 11A will only have the rights and entitlements which are contemplated by this Clause 11A. A Spouse will not otherwise enjoy any of the rights and entitlements of Members under any other provision of the Deed, and will not be a Member for any purpose unless:

- (a) the Spouse has made an application for Membership in accordance with the Deed and that application has been accepted by the Trustee; or
 - (b) the Trustee has made a determination to the contrary and the Spouse agrees, or is deemed by the Trustee to have agreed, to comply with any conditions specified in the determination (as amended from time to time).”.
- 6. Schedule 1 is amended by:
 - (a) by redesignating sub-rule 2A.1(b) as sub-rule 2A.1(c);
 - (b) by inserting the following as sub-rule 2A.1(b):
 - “(b) A Member who has selected another fund as a chosen fund under the Superannuation Charge Law shall be deemed to have elected to withdraw from membership of the Scheme and provided written notice to the Trustee and the Employer in accordance with sub-rule 2A.1(c).”;
 - (c) Inserting the following as Rule 3.5:
 - “3.5 **Government Co-Contributions**
 - Subject to Superannuation Law,
 - (a) the Trustee may accept into the Fund in respect of a Member any co-contribution or similar payment and may credit or treat any such co-contribution or similar payment as a voluntary contribution by the Member concerned.
 - (b) the Trustee may pay the Australian Taxation Office or other proper authority an amount determined by the Trustee in respect of any co-contribution or similar payment which has been received into the Fund in respect of a Member and which the Australian Taxation Officer or other proper authority considers has been incorrectly paid and the Trustee may reduce the Member’s account in the Fund or the benefit payable to or in respect of the Member by the amount which the Trustee has paid to the Australian Taxation Office or other proper authority under this sub-rule.
 - (c) The Trustee may refuse to accept any co-contribution or similar payment in such circumstances as it may from time to time determine.”;
 - (d) inserting the following as Rule 4.5:
 - “4.5 **Benefit Whilst in Service**
 - Subject to and in accordance with Superannuation Law, the Trustee may with the consent of the Corporation at the request of a Member who is still in the Service commence to pay a benefit from the Fund in accordance with the rules prescribed from time to time by the Trustee.”;
 - (e) replacing Rule 5.1 with the following:

- “5.1 Notwithstanding anything expressed or implied to the contrary in this Deed and these Rules, the Trustee may, with the consent of the Corporation, in the absolute discretion of the Trustee:
- (a) in the case of a Member who had withdrawn from, and not resumed, membership of the Scheme within 60 days of that person’s qualification therefor or such further period as the Trustee may think fit; or
 - (b) at their own initiative in special or exceptional circumstances, in lieu of such lump sum benefit provide:
 - (i) a pension from the amount held in respect of a Member being an allocated pension or a market-linked pension in accordance with the Rules prescribed by the Trustee; or
 - (ii) an annuity or annuities purchased by the Trustee after obtaining the advice of the Actuary of such amount or amounts payable on such terms and conditions as the Trustee shall determine as can be purchased by the lump sum benefit.”.


Deed of Modification
Number 7

Allens Arthur Robinson 

Executed as a Deed in Melbourne.

Corporation

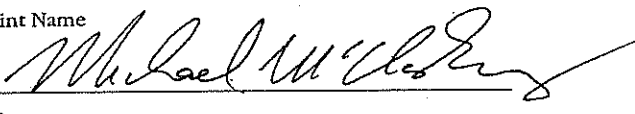
Signed Sealed and Delivered on behalf of
Australian Postal Corporation by an
authorised representative in the presence
of:



Authorised Representative

GRAEME JOHN

Print Name



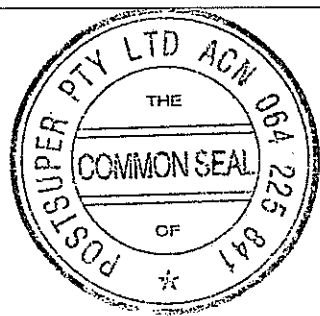
Witness

MICHAEL McCLOSKEY

Print Name

Trustee

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






Director/Secretary

JENNIFER ANNE GUTHRIE

Print Name

Director


Print Name
PATRICK RYAN