

TRUST DEED

Incorporating amendments made on:

**13 August 1993
04 September 1995
16 December 1996
14 December 2001
10 June 2003
01 July 2005
21 December 2006
26 June 2007, and
11 May 2009.**

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THIS AMENDING DEED is made the 13 th day of August 1993

BETWEEN THE NEW ZEALAND FIRE SERVICE COMMISSION ("the Commission")
of the first part

AND BARRY CHARLES DENT, Firefighter of Christchurch,
MICHAEL JOHN McENANEY, Firefighter of Auckland,
GEORGE GRANT ROBERTS, Fire Service Officer of Wellington,
KENNETH REGINALD SIMONS, Firefighter of Napier,
GEOFFREY JOHN SUMMERS, Fire Service Officer of Wellington,
MARK LEWIS WEAVER, Actuary of Wellington, and
DAVID WOODWARD, Fire Service Officer of Wellington ("the Trustees")
of the second part.

WHEREAS

- A By Trust Deed dated the 2nd day of December 1987 there was established the New Zealand Fire Service Commission Superannuation (Lump Sum) Scheme ("the Scheme") the provisions of which were amended by a deed dated the 4th day of July 1990, the 25th day of July 1991 and the 25th day of March 1993 ("the Trust Deed").
- B The Trustees are the present duly appointed Trustees of the Scheme.
- C In exercise of the powers conferred under Clause 17 of the Deed the Commission and the Trustees have resolved to amend the provisions of the Trust Deed as hereinafter provided.
- D The Commission and the Trustees wish to change the name of the Scheme to the New Zealand Fire Service Superannuation Scheme.
- E The written consent of the Commission is evidenced by its seal attested hereto.
- F The Trustees have obtained a certificate from a Solicitor of the Scheme that the trust Deed when amended by this amending deed will comply with section 7 of the Superannuation Schemes Act 1989 and will not contain any provision that is contrary to those implied in sections 8 to 10 of the said Act.

NOW THIS AMENDING DEED WITNESSES AS FOLLOWS:

PART I

THE TRUSTEES with the consent of the Commission (as testified by its execution of these presents) HEREBY RESCIND each and every one of the existing Clauses and Schedules of the Trust Deed and substitute them with the following provisions of Part II of this amending deed with the intent that the Scheme shall be constituted and administered as provided by the said Part II of this amending deed.

PART II

1. Definitions

For the purposes of this Trust Deed and the Schedules hereto the singular number shall include the plural and vice versa.

“Act” means the Superannuation Schemes Act 1989 as it may from time to time be amended or re-enacted and any reference to a section thereof shall be to the corresponding section of any amended or re-enacted Act. For the purposes of this Trust Deed, Act shall where appropriate be deemed to include such Regulations issued pursuant thereto as may at any given date be in force.

“Annual Review Date” means the first day of April, commencing from the first day of April 1994.

“Beneficiary” means a person eligible to receive a benefit from the Scheme

“Commencing Date” means the 17th day of April 1987.

“Commission's Accumulation” means in respect of a Member at any given date the sum of:

- (i) the contributions made by the Commission pursuant to Clause 2(i) of the Fourth Schedule of this Trust Deed in respect of that Member during the Member's Service less administration charges payable to the Scheme Administrator;

and

- (ii) the amount of any Reserve Fund A monies distributed pursuant to Clause 19(a) of this Trust Deed as compound interest thereon at the rate or rates determined by the Trustees after considering the advice of the Scheme Administrator.

“Dependants” for the purposes of this Trust Deed means the widow or widower and children of the Member and any other persons whom the Trustees in their absolute discretion determine to have been dependent either wholly or in part on the Member at the date of the Member's death.

“Employee” means any person who is employed by the Commission as National Commander, Deputy National Commander, Regional Commander, Executive Fire Officer, Officer, Firefighter, Controlroom staff, Black Watch staff or Mechanic.

“Fund” means the accumulation of moneys under this Trust Deed and shall comprise all contributions paid pursuant to this Trust Deed, all other moneys from time to time received and held by the Trustees under this Trust Deed, and the investments made pursuant to the provisions of this Trust Deed including all income derived therefrom.

“Fund Investment Manager” means any person, persons or company appointed by the Trustees to invest the whole or any part of the moneys or assets of the Scheme.

“Member” means a person who has become a Member pursuant to the provisions of the Second Schedule and shall include any such person so long as any benefit remains to be paid in respect of that person under the Scheme.

“Member's Accumulation” means in respect of a Member at any given date the sum of:

- (i) the contributions made by the Member pursuant to Clause I(b) of the Fourth Schedule of this Trust Deed during the Member's Service;
 - (ii) any contributions made by the Member pursuant to Clause I(d) of the Fourth Schedule of this Trust Deed during the Member's Service;
- and
- (iii) the amount of any Reserve Fund A monies distributed pursuant to Clause I9(a) of this Trust Deed as compound interest thereon at the rate or rates determined by the Trustees from time to time acting on the advice of the Scheme Administrator.

“Normal Retirement Date” means the day before a Member would become entitled to National Superannuation by virtue of the Member's age in accordance with Section 3 of the Social Welfare (Transitional Provisions) Act 1990 or any enactment in substitution thereof.

“Permanent Incapacity” means in respect of a Member permanent physical or mental incapacity suffered by the Member that is of such an extent that, having regard to the previous employment and other characteristics of the Member, the Member is unlikely to have a significant earning capacity in the future.

“Registered Superannuation Scheme” means a superannuation scheme registered under Part I of the Act.

“Reserve Fund A” at any time means monies held in the Fund at that time which have been derived from interest and other income from the investments of the Scheme.

“Reserve Fund B” at any time means moneys held in the Fund at that time which have been derived from the following sources and are not specifically required or allocated for any other purpose:

- (i) benefits foregone when Members cease to be eligible to contribute to the Scheme;

- (ii) unclaimed benefits;
- (iii) other money not required for the payment of benefits under the Scheme;
- (iv) any contributions made by the Commission pursuant to 2(ii) of the Fourth Schedule

“Retirement Accumulation” means in respect of a Member at any given date the sum of:

- (i) the Member's Accumulation;
 - (ii) the Commission's Accumulation;
 - (iii) the Member's Voluntary Accumulation (if any);
- and
- (iv) the amount of any Reserve Fund B monies distributed pursuant to Clause I9 (b) of this Trust Deed.

“Salary” in relation to a Member at any given date means:

- (i) for employees who are Officers, Firefighters and Controlroom Operators, the annual amount of "Total Weekly Wage" paid, plus any bonuses or allowances paid with every wage payment and for which no specific claim has to be made by the employee;
- (ii) for Mechanics, the annual wage paid plus any industrial allowances paid;
- (iii) for the National Commander, Deputy National Commander, Regional Commanders and Executive Officers, the annual salary plus the assessed value of the free benefit received for accommodation.

“Scheme Administrator” means any person, persons or company appointed by the Trustees to administer the Scheme on their behalf.

“Service” means subject to Clause 4 of the Second Schedule of this Trust Deed service with the Commission and its predecessors PROVIDED THAT in respect of a Member who was an Employee on the Commencing Date and has remained in continuous service since that date Service shall include the aggregate of all periods of service with the Commission or its predecessors.

“Special Transferred Member” means a Member in respect of whom a credit has been made to the Fund during that Member's Service pursuant to Clause 5 of the Second Schedule.

“Union” means the New Zealand Professional Firefighter's Union (Incorporated).

“Voluntary Accumulation” means in respect of a Member at any given date the sum of:

(i) any contributions made by the Member pursuant to paragraph (c) Clause 1 of the Fourth Schedule of this Trust Deed during the Member's Service;

and

(ii) in the case of a Special Transferred Member, the amount transferred into the Fund in respect of the member during the Member's Service in accordance with the provisions of Clause 5 of the Second Schedule;

and

(iii) the amount of any Reserve Fund A monies distributed pursuant to Clause 19(a) of this Trust Deed as compound interest thereon at the rate or rates determined by the Trustees after considering the advice of the Scheme Administrator.

2. Schedules

The Schedules to this Trust Deed and the conditions contained therein shall have the same force and effect as if set out in the body of this Trust Deed and any reference to this Trust Deed shall, where appropriate, be deemed to include the said Schedules.

3. Trustees Procedure

(a) The number of Trustees shall be seven of whom three shall be appointed by the Commission, three shall be appointed by the Union and one shall be appointed by the other six Trustees. The Trustees shall nominate as Chairperson one of their number, and in the absence of the Chairperson one of the other Trustees shall act as Chairperson.

The Chairperson shall hold office for one year or until a successor is appointed.

(b) A Trustee may be removed from office by the party responsible for that Trustee's appointment and a further Trustee shall forthwith be appointed by the appropriate party in place of any such Trustee so removed or otherwise vacating office.

In the event of a vacancy the remaining Trustees shall continue to act in accordance with the provisions of this Trust Deed until such vacancy is filled.

(c) Every removal and appointment of a Trustee shall be forthwith notified to the Scheme Administrator in such manner as it shall require.

- (d) Subject to any such removal a Trustee shall hold office until the Trustee retires from such office by notice in writing delivered to the Secretary or until the Trustee dies or becomes disqualified from office by operation of law.
- (e) The Trustees may meet together for the despatch of business and may regulate their meetings as they think fit PROVIDED THAT at least four such meetings are held within each calendar year.
- (f) Two Trustees may call a meeting of Trustees by giving seven days notice thereof to the Secretary, or such other person appointed by the Trustees, who shall give five days notice to the remaining Trustees.
- (g) Four Trustees, of whom one shall be a Trustee appointed by the Union and one shall be a Trustee appointed by the Commission shall constitute a quorum.
- (h) If a Trustee is unable to attend a meeting of the Trustees the Trustee may appoint in writing an alternative Trustee to attend that meeting. The alternative Trustee will have the full power of proxy.
- (i) At a meeting of Trustees questions shall be decided by a majority of votes and in the case of an equality of votes the Chairperson shall have a second or casting vote.
- (j) A resolution in writing signed by all the Trustees shall be as effective as a resolution passed at a duly convened meeting of Trustees.
- (k) The Trustees shall keep or cause to be kept proper minutes of all their resolutions and proceedings and proper books of account and records in connection with the Scheme.
- (l) No Trustee shall be answerable for the acts or defaults of the co-Trustees or for any act done in conformity with an effective decision of a majority of the Trustees from which decision that Trustee did not assent.
- (m) Except in the case of dishonesty, the wilful commission of an act known to be a breach of Trust or the wilful omission of an act when such omission would result in a breach of Trust, the Trustees shall be indemnified to the extent of the Fund held by them against all liabilities incurred by them in the execution or attempted execution or arising from the non execution of the Trusts, authorities, powers and discretions hereof and shall have a lien on and may use any moneys for the time being in their hands for such indemnity and generally for the payment of all proper legal and other costs of administration or winding up the Scheme and otherwise performing their duties under this Trust Deed. The indemnity hereby provided shall extend to any payment made to any person whom the Trustees bona fide believe to be entitled to the same.
- (n) The Trustees shall not be bound to act personally but may employ a solicitor or other agent to transact business required to be done in accordance with this Trust Deed.

4 Investments

- (a) All assets of the Scheme which are available for investment shall be invested in accordance with the Trustee Act 1956 as to the investment of Trust funds.
- (b) Notwithstanding anything to the contrary in Section 13D(1) of the Trustee Act 1956, the Trustees and any investment manager of the Scheme shall, in exercising the power of investment, exercise the care, diligence and skill required of that person by Section 13B or Section 13C of that Act, as is appropriate.

5. General Powers of the Trustees

- (a) The Trustees may in their absolute discretion enter into and execute all such contracts, Deeds and documents and do all such acts, matters and things as they deem expedient for the purpose of carrying out the Trusts, authorities, powers and discretions conferred upon them by this Trust Deed.
- (b) The Trustees shall have an absolute and uncontrolled discretion in the exercise of the Trusts, authorities, powers and discretions hereby vested in them and may refrain from exercising all or any of such Trusts, authorities, powers and discretions from time to time or at all PROVIDED THAT the Trustees shall at no time contravene the provisions of the Act in the exercise of such Trusts, authorities, powers and discretions.
- (c) The Trustees may delegate to any person such of the authorities, powers and discretions hereby vested in them as they deem necessary or desirable and in particular may in writing delegate to any person authority to sign on their behalf and supply to the Scheme Administrator any notice, request, consent, certificate or list or make any communication required to be given or made respectively to the Scheme Administrator.
- (d) The Trustees may at anytime and from time to time borrow and raise money for any of the purposes of the Scheme either with or without security. If security is given then the same may be by mortgage or charge over all or any of the assets of the Scheme. No lender shall be concerned to enquire as to the necessity for any such borrowing or as to the purpose for which it is required or as to the application of the money required.
- (e) The Trustees may appoint such Fund Investment Managers as they in their absolute discretion determine.
- (f) The Trustees shall be entitled to be reimbursed for any reasonable expense incurred by them in the administration of the Scheme.
- (g) The Trustees in their absolute discretion shall be authorised to fund insurance schemes which provide benefits to Members.

6. General Duties

- (a) The Trustees shall notify all Members of any significant alteration or modification made in accordance with the provisions of Clause 16 of this Trust Deed as soon as possible after the said alteration or modification comes into effect.
- (b) The Trustees shall arrange for such annual reports relating to the accounts of the Scheme as required under the Act to be forwarded to the Government Actuary.

7. Disputes

If any doubt arises as to the interpretation of any of the provisions of this Trust Deed or the rights of any Member or other person, the ruling of the Trustees on such dispute or doubt shall be absolute and final. This does not limit the rights of either party to proceedings in the High Court of New Zealand.

8. Membership

Employees shall become Members in accordance with the provisions of the Second Schedule.

9. Benefits

- (a) Subject to paragraph (b) of this Clause the benefits payable by the Trustees to or in respect of each Member shall be as set out in the Third Schedule.
- (b) Notwithstanding any provision of the Third Schedule the benefit payable to or in respect of a Member on ceasing to be a Member for any reason shall not be less than the total of the contributions made by the Member to the Scheme together with any amount transferred to the Fund pursuant to Clause 5 of the Second Schedule.

10. Contributions

The contributions payable by the Members and the Commission shall be determined in accordance with the provisions of the Fourth Schedule and shall be paid to the Scheme Administrator in such manner as shall be agreed between the Commission and the Trustees.

11. No Reversion to the Commission

All moneys contributed by the Commission shall cease to be the property of the Commission and in no event shall any part of the Fund be paid to or revert to the Commission (or their assigns or any liquidator or receiver thereof) except in so far as any prepayments of contributions by the Commission in respect of a particular Member of the Scheme may be repaid or paid from that Member's benefit and notwithstanding anything herein contained no amendment or alteration of this Trust Deed shall be made or permitted the effect of which would authorise any such payment or reversion.

12. Bankruptcy, Incapacity or Assignment

- (a) If any person being entitled to any interest in any benefit payable under the Scheme shall be or become bankrupt, then the benefit in respect of that person shall thereupon be forfeited to the Trustees who shall then apply such benefit (or so much thereof as would otherwise have been payable to that person) as and when it arises for the benefit of that person and/or any Dependant of that person in such manner as the Trustees in their absolute discretion think fit.
- (b) If any person being entitled to any interest in any benefit payable under the Scheme shall be or become, in the opinion of the Trustees, incapable of managing their own affairs, the Trustees may during such period of incapacity apply any such benefit (or so much thereof as would otherwise have been payable to that person) as and when it arises for the benefit of that person and for any Dependant of that person.
- (c) No person being entitled to any interest in any benefit payable under the Scheme shall assign, charge, alienate or borrow against the security of any such benefit.

13. Contract of Service not affected

Nothing in this Trust Deed contained whether express or implied shall:

- (i) in any way restrict the right of the Commission to determine or suspend the employment of any Member;
- or
- (ii) in any action brought against the Commission by or in respect of any Employee (whether or not a Member) affect or extend the Employee's contract of service with the Commission in any way or be used in any way as a ground for awarding damages or increasing any award of damages or for conferring any right whatsoever.

14. Payment of Duty or Tax

If any estate, succession, probate or other duty or any other form of tax shall be payable in respect of any benefit due to any person under the Scheme, then the Trustees may deduct the amount of such duty or tax (including any interest payable thereon) from such benefit and account for the same to the proper authorities before paying any such benefit or any portion thereof to the person entitled and may if necessary postpone payment of such benefit until such duty or tax and any interest thereon has been paid or provided for to the satisfaction of the Trustees.

15. Payment of Death Benefit

- (a) Any benefit payable under the Scheme in respect of a Member after the Member's death and expressed in this Trust Deed to be held in accordance with this Clause shall be held by the Trustees in Trust for and shall at the option of the Trustees

(i) be paid or applied to or for the benefit of the Dependants of that Member or such one or more of them and to the exclusion of the other or others of them in such shares and manner as the Trustees in their absolute discretion shall think fit PROVIDED THAT if upon the death of the last of the Dependants of the Member any moneys remain unapplied pursuant to the foregoing provisions of this sub-paragraph the Trustees shall pay such moneys to the legal personal representatives of that Member;

or

(ii) be paid to the legal personal representatives of that Member.

(b) Any benefit payable in respect of a Member under Clause 2 of the Third Schedule shall be paid by the Trustees to the designated legal personal representatives of that Member

PROVIDED THAT where the Member has prior to the Member's death advised the Trustees of those persons whom the Member considers for the purposes of this paragraph to be the Member's named beneficiaries then the Trustees may determine that the said benefit shall be paid to or applied for the benefit of the named beneficiaries in such shares and manner as the Trustees in their absolute discretion shall think fit.

16. Amendments to this Trust Deed

(a) The Commission and the Trustees may at any time by Deed executed by the Commission and all the Trustees (subject to the provisions of Clause 11 hereof) alter or modify all or any of the provisions herein contained and make new provisions to the exclusion of or in addition to all or any of the provisions herein contained, and such new provisions for the time being in force shall be of the same validity as if they had originally been contained in this Trust Deed and shall be subject in like manner to alteration or modification PROVIDED ALWAYS THAT no such amendment to this Trust Deed which would have the effect of:

(i) reducing, postponing or otherwise adversely affecting the benefits, whether vested, contingent or discretionary, that may in due course flow from, or are attributable to, membership of the Scheme up to the date the amendment is made; or

(ii) removing any right of the Members or other beneficiaries to participate in the management of the Scheme; or

(iii) increasing the contributions, fees or charges payable by any Member; or

(iv) providing for the reversion of any assets of the Scheme to any participating employer to any greater extent than already provided for in the Trust Deed

shall be made without the written consent of every Member, and of every other Beneficiary who is in receipt of a benefit under the Scheme at the date the amendment is made, who would be adversely affected by the amendment.

- (b) The Trustees shall, before any amendment is made to this Trust Deed:
 - (i) give a certificate that this Trust Deed, when amended as proposed, will comply with the provisions of Section 7 of the Superannuation Schemes Act 1989, and will not contain any provision that is contrary to those implied by Sections 8 to 10 of that Act; or
 - (ii) obtain a certificate to that effect from the administration manager of the Scheme or a Solicitor.
- (c) Within 14 days after any amendment to this Trust Deed is made, the Trustees shall lodge a copy of the certificate referred to in clause 16(b) and a copy of the amendment with the Government Actuary

17. Discontinuance of Contributions by the Commission

- (a) If the Commission at any time gives written notice to the Scheme Administrator and to the Trustees of its intention to cease making contributions to the Scheme, then, as from the date specified in such notice (hereinafter referred to as "the Closing Date") which shall not be earlier than six months after the date of such notice, unless such notice has been withdrawn the following provisions shall apply:
 - (i) at the discretion of the Trustees an Employee of the Commission may become a Member;
 - (ii) no further contributions shall be payable pursuant to Clause 2 of the Fourth Schedule except any which become due prior to the Closing Date;
 - (iii) the Trustees shall provide in respect of each person for whom benefits were secured pursuant to this Trust Deed immediately prior to the Closing Date a benefit in lieu thereof equivalent to the amount determined by the Trustees after considering the advice of the Scheme Administrator to be that person's equitable apportionment of the Fund. The benefit so determined shall be payable by the Trustees at the same time and upon the same terms and conditions (mutatis mutandis) as applied to the benefit previously secured in respect of the person concerned pursuant to this Trust Deed;
 - (iv) the Trustees shall notify all Members of the discontinuance of contributions by the Commission;
 - (v) the Trustees shall notify the Government Actuary of the discontinuance of contributions by the Commission.

- (b) The Commission with the agreement of the Trustees may at any time revoke by notice in writing given to the Trustees the notice issued pursuant to paragraph (a) of this Clause and recommence making contributions to the Scheme from a date agreed between the Commission and the Trustees and from that date the following provisions shall apply:
- (i) the provisions of paragraphs (a)(i) and (a)(ii) of this Clause shall cease to apply;
 - (ii) the Trustees shall notify all Members of the recommencement of contributions by the Commission;
 - (iii) the Trustees shall notify the Government Actuary of the recommencement of contributions by the Commission.

18. Termination

Unless the Trustees determine otherwise the Scheme shall be terminated if an act is passed to dissolve the Commission (otherwise than for the purpose of reconstruction or replacement by another statutory body or bodies) or if the Commission and/or the Trustees resolve to terminate the Scheme. As from the date of such termination, which shall be determined by the Commission and/or the Trustees, (hereinafter referred to as "the Effective Date") but which shall not be earlier than six months after the date of such act or resolution the following provisions shall apply:

- (i) no further benefits shall be payable pursuant to the Third Schedule except any which became due prior to the Effective Date;
- (ii) no further contributions shall be payable pursuant to the Fourth Schedule except any which became due prior to the Effective Date;
- (iii) the Trustees shall convert into cash the investments comprising the Fund;
- (iv) any amounts received by the Trustees pursuant to the provisions of this Clause shall be paid or applied by the Trustees to or for the benefit of all persons for whom benefits were secured pursuant to this Trust Deed immediately prior to the Effective Date in such proportions as the Trustees after considering the advice of the Scheme Administrator shall determine to be equitable;
- (v) if any person dies before receiving the whole of the benefit to which that person is entitled under this Clause the remainder of the benefit in respect of that person shall be held by the Trustees in accordance with Clause 15(a) of this Trust Deed;
- (vi) the Trustees shall as soon as practicable after any such termination, advise the Government Actuary that the distribution of assets has been completed.

19. Distribution of Reserve Funds

- (a) The Trustees may apply Reserve Fund A in any of the following ways:
- (i) towards increasing the retirement benefits of all Members on an equitable basis;
 - (ii) providing benefits other than retirement benefits for all Members of the Scheme on an equitable basis;
 - (iii) payment of the expenses of administering the Fund.
- (b) The Trustees may apply Reserve Fund B in any of the following ways:
- (i) providing any benefit that may be required in respect of any Member of the Scheme pursuant to Clause 2(b)(ii) or Clause 3(b)(ii) of the Third Schedule or any other benefits for all Members of the Scheme on an equitable basis;
 - (ii) providing personal benefits for Members or their Dependants in the case of hardship;
 - (iii) payment of the expenses of administering the Fund.

IN WITNESS WHEREOF this Trust Deed has been executed on the day first hereinbefore written.

The Common Seal of NEW ZEALAND FIRE SERVICE COMMISSION was hereto affixed in the presence of:

M D CUMMINGS
Chief Executive

M C VERRAN
Director of Administration

Signed by the said

BARRY CHARLES DENT
as Trustee in the presence of JIM DAVENPORT

MICHAEL JOHN McENANEY
as Trustee in the presence of JIM DAVENPORT

GEORGE GRANT ROBERTS
as Trustee in the presence of JIM DAVENPORT

KENNETH REGINALD SIMONS
as Trustee in the presence of JIM DAVENPORT

GEOFFREY JOHN SUMMERS
as Trustee in the presence of JIM DAVENPORT

MARK LEWIS WEAVER
as Trustee in the presence of JIM DAVENPORT

DAVID WOODWARD
as Trustee in the presence of JIM DAVENPORT

FIRST SCHEDULE

MISCELLANEOUS REQUIREMENTS

1. Annual Reports

- (a) Within six months after the end of a financial year a report will be prepared on the Scheme for that year, the report will contain information prescribed by Section 14 of the Act:
- (i) a statement of numerical changes in membership of the Scheme during the financial year;
 - (ii) the accounts of the scheme in respect of the financial year;
 - (iii) the auditors report on the accounts of the Scheme;
 - (iv) A statement by the Trustees as to whether all contributions required to be made to the Scheme in accordance with the terms of the Trust Deed have been made;
 - (v) a certificate by the Trustees as to whether all the benefits required to be paid from the Scheme in accordance with the terms of the Trust Deed have been paid;
 - (vi) A certificate by the Trustees as to whether the market value of the assets of the Scheme at the close of the financial year exceeded the total value of benefits that would have been payable had all members of the Scheme ceased to be members as at that date;
 - (vii) a notification by the Trustees if more than 10% of the market value of the assets of the Scheme at any time during the year was invested directly or indirectly (in a way in which it reasonable for the Trustees to be aware) in any employer who is a party to the Scheme or in any company or entity associated with any such employer and if so, details of all such investments held during the year;
 - (viii) a summary of any amendments to the Trust Deed that have been made since the date of the last annual report of the Trustees;
 - (ix) the names of, and any changes since the last annual report in, the Trustees and every administration manager, investment manager, and insurer, and of any actuaries, auditors and solicitors of the Scheme (either by reference to their own names or by reference to their firms);
 - (x) the name and address of the person to whom all correspondence from the Members to the Trustees should be sent.

2. Members Rights to Information

- (a) Each Member shall:
 - (i) within six months of the close of each financial year, be given a copy of the annual report in respect of the year;
 - (ii) have the right, upon request:
 - (1) to receive an estimate of the Member's benefits
 - (2) to look at, at any reasonable time, a copy of this Trust Deed
 - (3) to receive, upon payment of a reasonable fee, a copy of this Trust Deed.

3. Winding up of the Scheme

- (a) Where the Scheme is wound up, the Trustees
 - (i) shall, within 14 days after a winding up resolution is made, lodge a copy of that resolution with the Government Actuary;
 - (ii) shall ensure that final accounts of the Scheme, showing the financial position of the Scheme as at the date on which the winding up takes effect, are prepared;
 - (iii) shall ensure that those final accounts are audited;
 - (iv) shall as soon as practicable after those final accounts have been audited:
 - (1) send a copy of those accounts to the Government Actuary and to every person who was a member of the Scheme immediately before it was wound up; and
 - (2) Advise the Government Actuary and the Members in writing as to the manner in which the assets of the Scheme are to be distributed
 - (v) shall inform the Government Actuary of the date on which the distribution of assets is completed
- (b) Each person who is a Member of this Scheme immediately before its winding up shall continue to have the right, upon request:
 - (i) to look at, at any reasonable time, a copy of the Trust Deed;
 - (ii) to receive, upon payment of a reasonable fee, a copy of the Trust Deed.
- (c) Where the Scheme is wound up, registration shall be deemed to be cancelled as soon as the distribution of assets has been completed.

SECOND SCHEDULE

MEMBERSHIP

1. General

- (a) Employees shall become Members in accordance with Clause 2 of this Schedule.
- (b) Each Member shall do all things necessary to enable the Trustees to secure the benefits payable in respect of that Member under this Trust Deed.
- (c) At the time of entry into the Scheme each Member shall be given a booklet which will outline the brief details of the Scheme and shall specify the Member's principal rights and benefits thereunder.
- (d) Each Member shall be advised as soon as practicable after each Annual Review Date the minimum amount which would have been payable for the Member's benefit under this Trust Deed if the Member had left the Service at the immediately preceding Annual Review Date and such further information as the Trustees may determine.
- (e) Each Member shall have the right, at any reasonable time, to peruse this Trust Deed as it may be amended from time to time.
- (f) Each Member shall have the right, upon request, to receive either a copy of the last audited accounts of the Scheme and the auditor's report or a copy of the certificate detailing those accounting items specified in the Act and issued by the Scheme Administrator at the immediately preceding Annual Review Date.

2. Eligibility

- (a) Employees shall become eligible to become Members on the first day on which they become an Employee.
- (b) Any Employee who does not become a Member within three months of when first eligible to do so shall not be entitled to become a Member at a later date except with the consent of the Trustees.
- (c) An Employee who is not eligible to become a Member according to the foregoing provisions of this Clause may, at the discretion of the Trustees, be deemed to be eligible as from such date as shall be agreed between the Employee and the Trustees.
- (d) In order to become a Member an Employee who is, or is deemed to be, eligible to do so shall complete such form as shall be required by the Trustees.

3. Reduced Contributions

Notwithstanding anything to the contrary in this Trust Deed contained or implied:

- (i) during any period while a Member is temporarily absent from active employment in the Service without wages or salary or with reduced wages or salary or while the Member is working part-time or with reduced wages or salary by reason of injury or illness the Member's Salary shall be deemed to be such amount as shall be agreed upon between the Member, the Commission and the Trustees;
- (ii) during any period in which sub-paragraph (i) of this Clause applies or any part of such period or during circumstances of hardship a Member may, with the consent of the Commission and the Trustees, suspend contributions pursuant to this Trust Deed or contribute at such lesser rate of Salary than that which would otherwise be applicable as shall be agreed upon between the Member, the Commission and the Trustees.

4. Re-entry into the Service

Notwithstanding anything to the contrary in this Trust Deed contained or implied, if an Employee has retired from or left the Service having been at that time a member of the Scheme and subsequently re-enters it, then for the purposes of this Trust Deed:

- (i) Service prior to such re-entry shall be deemed not to be Service
- and
- (ii) the Employee shall be deemed never to have been a Member previously

5. Transfer from or to another Scheme

Notwithstanding anything to the contrary in this Trust Deed contained or implied:

- (i) if a Member is entitled to benefit under any superannuation scheme the transfer value of the Member's benefit in such scheme may, with the approval of the Trustees, be transferred into the Fund where it shall form part of the Voluntary Accumulation in respect of the Member;
- (ii) if a Member on leaving the Service becomes a member of another Registered Superannuation Scheme, the Trustees and the Member may agree that the capital sum which would otherwise be payable for the Member's benefit under the Scheme shall be transferred to such other Registered Superannuation Scheme; if such transfer is made the Fund shall be debited accordingly and no further benefit shall be payable in respect of the Member under the Scheme.
- (iii) if a Member becomes a member of another registered superannuation scheme while remaining in the Service the Trustees and the Member may

agree that the Member's Retirement Accumulation and Voluntary Accumulation shall be transferred to the other scheme and the Member shall become entitled to such benefits under the other scheme as agreed between the Trustees, the Member and the Trustees of the other scheme; if such transfer is made the Fund shall be debited accordingly and no further benefits shall be payable in respect of the Member under the Scheme.

6. Discontinuance by a Member

- (a) Any Member may at any time give notice in writing to the Trustees that the Member intends from a date not earlier than the date of the notice to discontinue contributions to the Scheme. Unless the notice has earlier been withdrawn, from the date contained in the notice the Trustees shall determine in respect of the Member, a benefit in lieu of all other benefits under this Trust Deed equivalent to the amount of the capital sum which would have become available for the benefit of the Member, had the Member resigned from the Service on the date on which the Member discontinued contributions to the Scheme.
- (b) The benefit determined under paragraph (a) of this clause shall be held by the Trustees within the Scheme and shall be payable by the Trustees at the same time and upon the same terms and conditions as applied to the benefits previously secured in respect of the Member concerned under this Trust Deed.

THIRD SCHEDULE

BENEFITS

1. Retirement

(a) If a Member retires from the Service:

(i) on the Member's Normal Retirement Date

or

(ii) with the consent of the Commission, on or after attaining age 50 but before the Member's Normal Retirement Date

there shall be payable for the Member's benefit a capital sum equal to the Member's Retirement Accumulation at the date of the Member's retirement.

2. Death while in the Service

(a) Subject to paragraph (b) of this Clause, if a Member dies while in the Service and before reaching Normal Retirement Date, there shall be payable at the date of the Member's death a capital sum equal to his Retirement Accumulation at the date of the Member's death.

(b) In the case of a Member for whom the aggregate of the Member's Commission's Accumulation plus the Member's Accumulation does not equal two times the Member's Salary the following shall apply:

(i) the total benefit payable pursuant to the Scheme (hereinafter called "the Total Benefit") shall be enhanced to an amount equal to two times the Member's Salary (hereinafter called the Minimum Benefit") at the date of the Member's death;

(ii) the difference between the Total Benefit and the Minimum Benefit shall be allocated from Reserve Fund B of the Scheme;

(iii) in the event of there being an insufficient amount in Reserve Fund B the shortfall shall be made up by way of a special contribution in accordance with Clause 2(ii) of the Fourth Schedule of this Trust Deed.

PROVIDED THAT in the case of a Member who was an Employee on the Commencing Date or who joined the Scheme after 1 August 1993 and who at the date of the member's death was contributing pursuant to Clause I(b) of the Fourth Schedule of this Trust Deed at a rate that is less than 6% of the Member's Salary, any Minimum Benefit payable pursuant to this Clause shall be pro rated accordingly.

3. Loss Of Medical Fitness

- (a) Subject to paragraph (b) of this Clause, if a Member is required to leave the Service before the member's Normal Retirement Date due to the Member being certified by two medical practitioners, nominated by the Commission, to be substantially medically unfit to perform any specified duties in the New Zealand Fire Service which the Commission considers suitable for the Member, there shall become available for the Member's benefit a capital sum equal to the member's Retirement Accumulation.
- (b) In the case of a Member to whom paragraph (a) of this Clause applies and for whom the aggregate of the member's Commission's Accumulation plus the Member's Accumulation does not equal two times the member's Salary the following shall apply:
- (i) the total benefit payable pursuant to the Scheme (hereinafter called "the Total Benefit") shall be enhanced to an amount equal to two times the Member's Salary (hereinafter called "the Minimum Benefit") at the date of determination;
 - (ii) the difference between the Total Benefit and the Minimum Benefit shall be allocated from Reserve Fund B of the Scheme;
 - (iii) in the event of there being an insufficient amount in Reserve Fund B the shortfall shall be made up by way of a special contribution in accordance with Clause 2(ii) of the Fourth Schedule of this Trust Deed.

PROVIDED THAT in the case of a Member who was an Employee on the Commencing Date or who joined the Scheme after 1 August 1993 and who is contributing pursuant to Clause 1(b) of the Fourth Schedule of this Trust Deed at a rate that is less than 6% of the Member's Salary, any Minimum Benefit payable pursuant to this Clause shall be pro rated accordingly.

AND PROVIDED FURTHER THAT in the case of a Member who is within 24 calendar months of the Member's Normal Retirement Date and who would ordinarily have remained an Employee and who would not have earned the equivalent of two times annual salary the Total Benefit payable will be enhanced only to the salary the Member could have earned if the Member had remained in the Service of the Commission.

4. Loss of Physical Fitness

If a Member is required to leave the Service before the Member's Normal Retirement Date due to the Member being unable to meet the physical fitness standards required by the Commission and in the opinion of the Commission is unable to or does not respond to remedial action, there shall become available for the member's benefit a capital sum equal to the sum of:

- (i) the Member's Accumulation
 - (ii) the Member's Voluntary Accumulation (if any)
- plus
- (iii) five-sixths of one percent of the member's Commission's Accumulation for each complete month of Service in excess of sixty months subject to a maximum of 100%.

5. Resignation

- (a) If a Member resigns from the Service before the Member's Normal Retirement Date or ceases to be an Employee in circumstances where a benefit is not payable in respect of that Member pursuant to any other Clause of this Schedule, there shall be payable for the member's benefit a capital sum the amount of which shall be determined by the Trustees in their absolute discretion but which shall be not less than:

- (i) the sum of:
 - (1) the Member's Accumulation;
 - (2) the Member's Voluntary Accumulation (if any);
- and
- (3) the amount determined pursuant to paragraph (b) of this Clause;

or greater than

- (ii) the Member's Retirement Accumulation.
- (b) The amount referred to in paragraph (a) of this clause as being determined according to this paragraph shall be equal to five-sixths of one percent of the Member's Commission's Accumulation for each complete month of Service in excess of sixty months subject to a maximum of 100%

PROVIDED THAT where the member:

- (i) ceases to be a Member as a consequence of retrenchment by the Commission; or
- (ii) resigns or retires from the Service after attaining the age of 60

then the amount payable in terms of this paragraph shall be equal to the Member's Retirement Accumulation at the date of the member's resignation or retirement.

FOURTH SCHEDULE

CONTRIBUTIONS

1. Members' Contributions

- (a) Each Member's contribution shall be determined in accordance with paragraphs (b), (c), (d) and (e) of this Clause and shall be payable until the Member:
- (i) ceases to be in the Service;
 - or
 - (ii) is no longer an Employee;
 - or
 - (iii) has elected to cease contributing pursuant to this Trust Deed.

whichever occurs the earliest.

- (b) Subject to the provisions of paragraph (e) of this Clause each Member shall contribute at the rate of 6% of the Member's Salary

PROVIDED THAT in the case of a Member who was an Employee on the Commencing Date, the Member shall elect to contribute at such rate of Salary as the Member determines SUBJECT TO a maximum rate according to the age of the Member at the Commencing Date according to the following scale:

Under age 30	6%
Age 30-34	7%
Age 35-39	8%
Age 40-44	9%
Age 45-49	10%
Age 50 or over	11%

AND PROVIDED FURTHER THAT any Member who has elected to contribute at a rate less than the maximum rate permitted pursuant to the provisions of this paragraph shall have the options:

- (i) on or before the 17th day of April 1988, to increase such rate up to the maximum rate permitted pursuant to the provisions of this paragraph;
 - or
 - (ii) after the 17th day of April 1988, to increase such rate up to a maximum of 6%.
- (c) Subject to the provisions of paragraph (e) of this Clause a Member may with the consent of the Trustees at any time whilst the Member is contributing to this Scheme pursuant to paragraph (b) of this Clause, contribute any additional lump

sum, or contribute at such greater rate and for such period as may be agreed with the Trustees.

- (d) Subject to the provisions of paragraph (e) of this Clause, in the case of a Member:
- (i) who was an Employee on the 1st day of April 1986 the Member shall, prior to the 17th day of April 1988, be entitled to elect to contribute such amount to the Scheme relating to the Member's Service between the 1st day of April 1986 and the date of becoming a Member;

or

 - (ii) who became an Employee after the 1st day of April 1986 but before the Commencing Date the Member shall prior to the 17th day of April 1988, be entitled to elect to contribute such amount to the Scheme relating to the Member's Service prior to the date of becoming a Member

in such manner as shall be agreed upon between the Member and the Trustees up to the maximum rate the Member is entitled to contribute at pursuant to paragraph (b) of this Clause.

- (e) Each Member shall elect on the date of becoming a Member to make contributions pursuant to the provisions of this Clause.
- (f) The Commission shall deduct from the salary or wages of each Member the contributions to be made by the Member as hereinbefore provided and the amount of such contributions so deducted by the Commission shall be paid to the Trustees.

2. Commission's Contributions

The Commission's contributions shall be equal to the sum of:

- (i) in respect of each Member who has elected for the time being to contribute to this Scheme and is contributing pursuant to Clause I(b) of this Schedule shall be at the rate of:
 - (1) 1.52 times the amount of the contribution made by the Member in accordance with Clause I(b) of this Schedule;

and

 - (2) 1.52 times the amount of the contribution (if any) made by the Member in accordance with Clause I(d) of this Schedule.

The contributions are net of Superannuation Contributions Withholding Tax.

- (ii) such special contributions as may be required pursuant to Clause 2 or 3 of the Third Schedule to make good any shortfall occurring in Reserve Fund B; and
- (iii) any lump sum the Commission decides to contribute.

THIS AMENDING DEED is made the 4 th day of September 1995

BETWEEN THE NEW ZEALAND FIRE SERVICE COMMISSION ("the Commission")
of the first part

AND ROBERT ANDREW BAILLIE of Wellington, Regional Manager,
MICHAEL JOHN McENANEY of Auckland, Fire Officer,
KENNETH REGINALD SIMONS of Napier, Firefighter,
LEONCE JONES of Wellington, Fire Officer,
STEPHEN COLIN WARNER of Christchurch, Fire Officer,
MARK LEWIS WEAVER of Wellington, Actuary,
GRAHAM JAMES WRIGLEY of Wellington, Area Manager ("the Trustees")
of the second part

WHEREAS

- A. By Trust Deed dated the 2nd day of December 1987 there was established the New Zealand Fire Service Commission Superannuation Scheme ("the Scheme") the provisions of which were amended by deed dated the 4th day of July 1990, the 25th day of July 1991, the 25th day of March 1993 and the 13th day of August 1993 ("the Trust Deed")
- B. The Trustees are the present duly appointed Trustees of the Scheme.
- C. In exercise of the powers conferred under Clause 16 of the Trust Deed the Commission and the Trustees have resolved to amend the provisions of the Trust Deed as hereinafter provided.
- D. In the amending deed dated 13 August 1993 the Commission and the Trustees stated a desire to change the name of the Scheme to the New Zealand Fire Service Superannuation Scheme.
- E. The amending deed dated 13 August was registered with the Government Actuary. However doubts have arisen as to its efficacy in changing the name of the Scheme. Accordingly the Trustees have resolved to remove any doubts regarding this matter.
- F. The Commission and the Trustees wish to allow New Zealand Service personnel who are Members of the Scheme during their employment to remain Members upon retirement.
- G. The written consent of the Commission is evidenced by its seal attested hereto .
- H. The Trustees have obtained a certificate from a solicitor of the Scheme that the Trust Deed when amended by this amending deed will comply with Section 7 of the Superannuation Schemes Act 1989 and will not

contain any provision that is contrary to those implied in Sections 8 to 10 of the said Act.

NOW THIS AMENDING DEED WITNESSES AS FOLLOWS:

1. Definitions

The definition of Employee is removed and substituted with the following definition of Employee which states:

"**Employee** means any person who is employed by the Commission or has been employed by the Commission but has since retired as National Commander, Deputy National Commander, Regional Commander, Executive Fire Officer, Officer, Firefighter, Controlroom Staff, Black Watch Staff or Mechanic" .

1.2 After the definition of Salary and before the definition of Scheme Administrator is added the following definition of Scheme which states:

"**Scheme** means The New Zealand Fire Service Superannuation Scheme created by a deed of trust made between the New Zealand Fire Service Commission and the Trustees for the time being and dated the 2nd day of December 1987.

2. Second Schedule

2.1 After Paragraph 6 is added Paragraph 7 which states

"7. Members who have retired from service

(a) Any Member who has retired from the Service may remain a Member of the Scheme provided that within one month of their retirement they notify the Trustees in writing of their intention to continue as a Member.

(b) Any Member who has retired shall remain a Member only so long as any benefit remains to be paid in respect of that person under the Scheme.

(c) Any Member who has retired shall not be entitled to make further contributions to the Scheme except with the consent of the Trustees.

(d) Clauses 2, 3, 4 and 5 of the Third Schedule shall not apply to any Member who has retired.

(e) The funds of any Member who has retired shall be administered and subject to such fees as the Trustees in their absolute discretion shall determine."

3. Fourth Schedule

3.1 Paragraph 2 is removed and substituted with the following paragraph 2 which states

"2. Commission's Contributions

- (a) The Commission's contributions payable during a Member's employment by the Commission, shall be equal to the sum of:
- (i) in respect of each Member who has elected for the time being to contribute to this Scheme and is contributing pursuant to Clause 1 (b) of this Schedule shall be at the rate of:
 - (1) 1.52 times the amount of the contribution made by the Member in accordance with Clause 1 (b) of this Schedule;
 - and
 - (2) 1.52 times the amount of the contribution (if any) made by the Member in accordance with Clause 1 (d) of this Schedule; and
 - (ii) such special contributions as may be required pursuant to Clause 2 or 3 of the Third Schedule to make good any shortfall occurring in Reserve Fund B; and
 - (iii) any lump sum the Commission decides to contribute.
- (b) The contributions are net of Superannuation Contributions Withholding Tax.
- (c) The Commission shall have no obligation whatsoever to make any contribution in respect of a Member who has ceased to be employed by the Commission."

IN WITNESS WHEREOF this Trust Deed has been executed on the day first hereinbefore written

The Common Seal of NEW ZEALAND FIRE SERVICE COMMISSION was hereto affixed in the presence of:

K COMBER

S McINTYRE

Signed by the said

ROBERT ANDREW BAILLIE
as Trustee in the presence of BARRY DENT

MICHAEL JOHN McENANEY
as Trustee in the presence of R KYLE

KENNETH REGINALD SIMONS
as Trustee in the presence of BARRY DENT

LEONCE JONES
as Trustee in the presence of BARRY DENT

STEPHEN COLIN WARNER
as Trustee in the presence of BARRY DENT

MARK LEWIS WEAVER
as Trustee in the presence of BARRY DENT

GRAHAM JAMES WRIGLEY
as Trustee in the presence of BARRY DENT

THIS AMENDING DEED is made the 16 th day of December 1996

BETWEEN THE NEW ZEALAND FIRE SERVICE COMMISSION ("the Commission") of the first part

AND THE TRUSTEES OF THE NEW ZEALAND FIRE SERVICE SUPERANNUATION SCHEME ("the Trustees") of the second part

WHEREAS

- A By Trust Deed dated the 2nd day of December 1987 it was established that the New Zealand Fire Service Commission Superannuation Scheme ("the Scheme") the provisions of which were amended by deed dated the 4th day of July 1990, the 25th day of July 1991, the 25th day of March 1993, the 13th day of August 1993 and the 4th day of September 1995 ("the Trust Deed").
- B The Trustees are the present duly appointed Trustees of the Scheme.
- C In exercise of the powers conferred under clause 16 of the Deed the Commission and the Trustees have resolved to amend the provisions of the Trust Deed as hereinafter provided. The Trustees wish to allow personnel employed by the New Zealand Fire Service and designated as community safety team members under a contract of employment, the New Zealand Fire Service Area Based Collective Employment Contract for Community Safety Teams, dated the 29th day of March 1996, to be eligible for membership of the Scheme.
- D The Trustees have obtained a certificate from a solicitor of the scheme that the Trust Deed if amended by this amending deed will comply with Section 7 of the Superannuation Schemes Act 1989 and will not contain any provision that is contrary to those implied by sections 8-10 of the said Act.

NOW THIS AMENDING DEED WITNESSETH AS FOLLOWS:

1. **Definitions**
- 1.1 The definition of employee is removed and substituted with the following definition of employee which states:
"employee means any person who is employed by the Commission or has been employed by the Commission but has since retired as National Commander, Deputy National Commander, Regional Commander, Executive Fire Officer, Officer, Firefighter, Control Room staff, Black Watch Staff, Mechanics, or Community Safety Team Member, the latter who is employed under a contract of employment, the New Zealand Fire Service Area Based Collective Employment Contract for Community Safety Teams, dated the 29th day of March 1996.

1.2 The definition of salary is removed and substituted with the following definition of salary which states:

'salary in relation to a member at any given date means:

- (i) for employees who are Officers, Firefighters, Control Room Operators, or Community Safety Team Members, the annual amount of the "total weekly wage" paid, plus any bonuses or allowances paid with every wage payment and for which no specific claim has to be made by the employee;
- (ii) for Mechanics, the annual wage paid plus any industrial allowances paid;
- (iii) for the National Commander, Deputy National Commander, Regional Commanders, and Executive Officers, the annual salary plus the assessed value of the free benefit received for accommodation".

IN WITNESS whereof this deed has been executed on the day first hereinbefore mentioned.

The Common Seal of NEW ZEALAND FIRE SERVICE COMMISSION was hereto affixed in the presence of:-

K COMBER

M D CUMMINGS

EXECUTED by the said

ROBERT ANDREW BAILLIE
as Trustee in the presence of ANN McINTYRE

MICHAEL JOHN McENANEY
as Trustee in the presence of BARRY DENT

KENNETH REGINALD SIMONS
as Trustee in the presence of TERRY EXETER

LEONCE COLIN JONES
as Trustee in the presence of BARRY DENT

STEPHEN COLIN WARNER
as Trustee in the presence of BARRY DENT

MARK LEWIS WEAVER
as Trustee in the presence of BARRY DENT

GRAHAM JAMES WRIGLEY
as Trustee in the presence of RAY KENNEDY

THIS AMENDING DEED is made the 14 th day of December 2001

BETWEEN THE NEW ZEALAND FIRE SERVICE COMMISSION ("the Commission") of the first part

AND THE TRUSTEES OF THE NEW ZEALAND FIRE SERVICE SUPERANNUATION SCHEME ("the Trustees") of the second part

WHEREAS

A By Trust Deed dated the 2nd day of December 1987 it was established that the New Zealand Fire Service Commission Superannuation Scheme ("the Scheme") the provisions of which were amended by deed dated the 4th day of July 1990, the 25th day of July 1991, the 25th day of March 1993, the 13th day of August 1993, the 4th day of September 1995 and the 16 th day of December 1996 ("the Trust Deed").

B The Trustees are the present duly appointed Trustees of the Scheme.

C In exercise of the powers conferred under clause 16 of the Deed the Commission and the Trustees have resolved to amend the provisions of the Trust Deed as hereinafter provided. Namely,

- (i) Where any benefit, or sum, or amount is payable and owing but has not for the period of two years been collected and remains unclaimed shall be credited to Reserve Fund A; and
- (ii) That trainee firefighters are eligible to join the Scheme from their first day of employment/engagement with the New Zealand Fire Service.

D The Trustees have obtained a certificate from a solicitor of the scheme that the Trust Deed if amended by this amending deed will comply with Section 7 of the Superannuation Schemes Act 1989 and will not contain any provision that is contrary to those implied by sections 8-10 of the said Act.

NOW THIS AMENDING DEED WITNESSETH AS FOLLOWS:

1. Unclaimed money:

1.1 Where any money or benefit, or any sum, is payable and owing but has not for the period of two years been collected and remains unclaimed that sum shall be credited to Reserve Fund A of the Scheme.

2. Trainee Firefighters Eligible to Join the Scheme:

2.1 That the definition of Employee as contained in Clause 1 of the deed is hereby extended to include 'Trainee Firefighter'.

2.2 That clause 2 (a) of the Second Schedule to the Deed is hereby amended as follows:

2 (a) Any new Employee of the New Zealand Fire Service is entitled to join the Scheme whilst employed under training or from their first day of engagement of employment

IN WITNESS whereof this deed has been executed on the day first hereinbefore mentioned.

The Common Seal of NEW ZEALAND FIRE SERVICE COMMISSION was hereto affixed in the presence of:-

M BAZLEY

EXECUTED by the said

VINCENT PATRICK ARBUCKLE
as Trustee in the presence of BETH PIGGOTT

LEONCE COLIN JONES
as Trustee in the presence of BARRY DENT

MICHAEL JOHN McENANEY
as Trustee in the presence of BARRY DENT

HUTTON DAVID PEACOCK
as Trustee in the presence of BARRY DENT

KEVIN CHARLES PEACOCK
as Trustee in the presence of BARRY DENT

KENNETH REGINALD SIMONS
as Trustee in the presence of BARRY DENT

STEPHEN COLIN WARNER
as Trustee in the presence of BARRY DENT

THIS AMENDING DEED is made the 10th day of June 2003

BETWEEN THE NEW ZEALAND FIRE SERVICE COMMISSION ("The Commission") of the first part

AND THE TRUSTEES OF THE NEW ZEALAND FIRE SERVICE SUPERANNUATION SCHEME ("The Trustees") of the second part

WHEREAS

A By Trust Deed sated the 2nd day of December 1987 it was established that the New Zealand Fire Service Commission Superannuation Scheme ("the Scheme"), the provisions of which were amended by deed dated the 4th day of July 1990, the 25th day of July 1991, the 25th day of March 1993, the 13th day of August 1993, the 4th day of September 1995, the 16th day of December 1996 and the 14th day of December 2001 ("the Trust Deed"):

B The Trustees are the present duly appointed trustees of the Scheme:

C In exercise of the powers conferred under clause 16 of the Deed the Commission and the Trustees have resolved to amend the provisions of the Trust Deed as hereinafter provided. Namely:

Pursuant to Paragraph 4 of the Third Schedule of the Trust Deed provision was made for payment of a benefit on loss of physical fitness. The provisions are to be amended in accordance with this Deed.

D The Trustees have obtained a certificate from a solicitor of the Scheme that the Trust Deed, if amended by this Amending Deed, will comply with Section 7 of the Superannuation Schemes Act 1989, and will not contain any provision that is contrary to those implied by sections 8-10 of the said Act.

NOW THIS AMENDING DEED WITNESSETH AS FOLLOWS:

1. **Paragraph 4, Third Schedule – Loss of Physical Fitness:**

Paragraph 4 is removed and substituted with the following paragraph, which states:

"If a Member is required to leave the Service before the Member's Normal Retirement Date due to the Member being unable to meet the physical fitness standards required by the Commission and in the opinion of the Commission is unable to or does not respond to remedial action, there shall be made available for the Member's benefit a capital sum equivalent to the amounts provided for loss of medical fitness pursuant to paragraph 3 herein".

IN WITNESS whereof this deed has been executed on the day first hereinbefore mentioned.

The Common Seal of NEW ZEALAND FIRE SERVICE COMMISSION was hereto affixed in the presence of:-

MARGARET BAZLEY

EXECUTED by the said

VINCENT PATRICK ARBUCKLE
as Trustee in the presence of BARRY DENT

ALLAN JAMES KERRISK
as Trustee in the presence of BARRY DENT

MICHAEL JOHN McENANEY
as Trustee in the presence of BARRY DENT

HUTTON DAVID PEACOCK
as Trustee in the presence of BARRY DENT

KEVIN CHARLES PEACOCK
as Trustee in the presence of BARRY DENT

KENNETH REGINALD SIMONS
as Trustee in the presence of BARRY DENT

STEPHEN COLIN WARNER
as Trustee in the presence of BARRY DENT

THIS AMENDING DEED is made the 1 st day of July 2005

BETWEEN THE NEW ZEALAND FIRE SERVICE COMMISSION (“The Commission”) of the first part

AND THE TRUSTEES OF THE NEW ZEALAND FIRE SERVICE SUPERANNUATION SCHEME (“The Trustees”) of the second part

WHEREAS

A By Trust Deed dated the 2nd day of December 1987 there was established the New Zealand Fire Service Commission Superannuation Scheme (“the Scheme”), the provisions of which were amended by deed dated the 4th day of July 1990, the 25th day of July 1991, the 25th day of March 1993, the 13th day of August 1993, the 4th day of September 1995, the 16th day of December 1996, the 14th day of December 2001 and the 10th of June 2003 (“the Trust Deed”):

B The Trustees are the present duly appointed Trustees of the Scheme:

C In exercise of the powers conferred under clause 16 of the Deed the Commission and the Trustees have resolved to amend the provisions of the Trust Deed as hereinafter provided, namely:

Pursuant to the s.84 B of the State Sector Act 1988 certain amendments, namely to Clause 16 of the Deed and to Clauses 5 (i) and 5 (ii) are required to effect compliance.

D The Trustees have obtained a certificate from a solicitor of the Scheme that the Trust Deed, if amended by this Amending Deed, will comply with Section 7 of the Superannuation Schemes Act 1989, and will not contain any provision that is contrary to those implied by sections 8-10 of the said Act.

NOW THIS AMENDING DEED WITNESSETH AS FOLLOWS:

1. Clause 16 – Amendments to this Trust Deed:

Clause 16 (a) is added to as follows:

“The Commission and the Trustees may at any time by Deed executed by the Commission and all the Trustees (subject to the provisions of Clause 11 hereof) alter or modify all or any of the provisions herein contained and make new provisions to the exclusion of or in addition to all or any of the provisions herein contained, and such new provisions for the time being in force shall be of the same validity as if they had originally been contained in this Trust Deed and shall be subject in like manner to alteration or modification PROVIDED ALWAYS THAT no such amendment to this Trust Deed shall contravene section 84 B (h) of the State Sector Act 1988 including any subsequent amendments to that section and no such amendment to this Trust Deed which would have the effect of”:

2. Clauses 5 (i) and 5 (ii) of the Second Schedule – Membership – Transfer from or to another Scheme, amended as follows:

- (i) “If a member is entitled to benefit under any superannuation scheme the transfer value of the Member’s benefit in such scheme, can if the Member elects, be transferred into the Fund where it shall form part of the Voluntary Accumulation in respect of the Member”.
- (ii) “If a Member on leaving the Service becomes a member of another superannuation scheme, if the Member so elects the value of the benefit attributable to that person’s membership of the Scheme, which would otherwise be payable for the Member’s benefit under the Scheme shall be transferred to such other superannuation scheme; if such transfer is made the Fund shall be debited accordingly and no further benefit shall be payable in respect of the Member under the Scheme”.

IN WITNESS whereof this deed has been executed on the day first hereinbefore mentioned.

The Common Seal of NEW ZEALAND FIRE SERVICE COMMISSION was hereto affixed in the presence of:-

MARGARET BAZLEY

EXECUTED by the said

VINCENT PATRICK ARBUCKLE
as Trustee in the presence of DEREK BEST

ALLAN JAMES KERRISK
as Trustee in the presence of BARRY DENT

MICHAEL JOHN McENANEY
as Trustee in the presence of T BANCROFT

KENNETH REGINALD SIMONS
as Trustee in the presence of BARRY DENT

STEPHEN COLIN WARNER
as Trustee in the presence of BARRY DENT

RUSSELL CLIFFORD WOOD
as Trustee in the presence of BARRY DENT

TIMOTHY PATRICK McGUINNESS
as Trustee in the presence of L MASON

THIS AMENDING DEED is made the 21 st day of December 2006

BETWEEN THE NEW ZEALAND FIRE SERVICE COMMISSION (“The Commission”) of the first part

AND THE TRUSTEES OF THE NEW ZEALAND FIRE SERVICE SUPERANNUATION SCHEME (“The Trustees”) of the second part

WHEREAS

A By Trust Deed dated the 2nd day of December 1987 there was established the New Zealand Fire Service Commission Superannuation Scheme (“the Scheme”), the provisions of which were amended by deed dated the 4th day of July 1990, the 25th day of July 1991, the 25th day of March 1993, the 13th day of August 1993, the 4th day of September 1995, the 16th day of December 1996, the 14th day of December 2001, the 10th of June 2003 and the 1st July 2005 (“the Trust Deed”):

B The Trustees are the present duly appointed Trustees of the Scheme:

C In exercise of the powers conferred under clause 16 of the Deed the Commission and the Trustees have resolved to amend the provisions of the Trust Deed as hereinafter provided, namely:

That the vesting of the Commission’s Accumulations shall commence on the first day of membership of the scheme, which requires amendments to Clause 5 of the Third Schedule of the Trust Deed.

D The Trustees have obtained a certificate from a solicitor of the Scheme that the Trust Deed, if amended by this Amending Deed, will comply with Section 7 of the Superannuation Schemes Act 1989, and will not contain any provision that is contrary to those implied by sections 8-10 of the said Act.

NOW THIS AMENDING DEED WITNESSETH AS FOLLOWS:

1. Clause 5 of the Third Schedule – Benefits – Resignation, is deleted in its entirety and replaced as follows:

“Clause 5 - Resignation

1. If a Member resigns from the Service before the Member’s Normal Retirement Date or ceases to be an Employee in circumstances where a benefit is not payable in respect of that Member pursuant to any other Clause of this Schedule, there shall be payable for the member’s benefit a capital sum the amount of which shall be determined by the Trustees in their absolute discretion but which shall not be less than:

- (i) the sum of:
 - (1) the Member’s Accumulation
 - (2) the Commission’s Accumulation, and
 - (3) the Member’s Voluntary Accumulation (if any)

or greater than

- (ii) the Member’s Retirement Accumulation.

(b) Where the member:

- (i) ceases to be a Member as a consequence of retrenchment by the Commission, or,
 - (ii) resigns or retires from the Service after attaining the age of 60
- then the amount payable shall be equal to the Member's Retirement Accumulation at the date of the member's resignation or retirement."

IN WITNESS whereof this deed has been executed on the day first hereinbefore mentioned.

The Common Seal of NEW ZEALAND FIRE SERVICE COMMISSION was hereto affixed in the presence of:-

MARGARET BAZLEY

EXECUTED by the said

VINCENT PATRICK ARBUCKLE
as Trustee in the presence of BILL BUTZBACH

ATHOL DONALD CONWAY
as Trustee in the presence of DEREK BEST

DENIS JAMES FITZMAURICE
as Trustee in the presence of BARRY DENT

ALLAN JAMES KERRISK
as Trustee in the presence of STEPHEN WARNER

TIMOTHY PATRICK McGUINNESS
as Trustee in the presence of BARRY DENT

STEPHEN COLIN WARNER
as Trustee in the presence of VINCENT ARBUCKLE

RUSSELL CLIFFORD WOOD
as Trustee in the presence of BILL BUTZBACH

THIS AMENDING DEED is made the 26 th day of June 2007

BETWEEN THE NEW ZEALAND FIRE SERVICE COMMISSION (“The Commission”) of the first part

AND THE TRUSTEES OF THE NEW ZEALAND FIRE SERVICE SUPERANNUATION SCHEME (“The Trustees”) of the second part

WHEREAS

A By Trust Deed dated the 2nd day of December 1987 there was established the New Zealand Fire Service Commission Superannuation Scheme (“the Scheme”), the provisions of which were amended by deed dated the 4th day of July 1990, the 25th day of July 1991, the 25th day of March 1993, the 13th day of August 1993, the 4th day of September 1995, the 16th day of December 1996, the 14th day of December 2001, the 10th day of June 2003, the 1st July 2005 and the 21st December 2006 (“the Trust Deed”):

B The Trustees are the present duly appointed Trustees of the Scheme:

C In exercise of the powers conferred under clause 16 of the Deed the Commission and the Trustees have resolved to amend the provisions of the Trust Deed as hereinafter provided, namely:

Pursuant to sections 34 and 35 of the Superannuation Schemes Act 1989 and as a consequence of the introduction of the KiwiSaver Act 2006 certain amendments to the Trust Deed, namely the amendment of Part II of the Trust Deed and the incorporation of a Fifth Schedule incorporating the Complying Fund Rules are required.

D The Trustees have obtained a certificate from a solicitor of the Scheme that the Trust Deed, if amended by this Amending Deed, will comply with Section 7 of the Superannuation Schemes Act 1989, and will not contain any provision that is contrary to those implied by sections 8-10 of the said Act.

NOW THIS AMENDING DEED WITNESSETH AS FOLLOWS:

I. Part II of the Trust Deed – Clause 1 – Definitions

Clause 1 is amended by inserting the following definitions after the definition of “Commission’s Accumulation”:

“**Complying Fund Rules**” means complying fund rules as defined in section OB 1 of the Income Tax Act 2004;

“**Complying Superannuation Fund**” means a registered superannuation scheme which the Government Actuary has approved as a complying superannuation fund under section 35 of the Superannuation Schemes Act 1989;

II. The Fifth Schedule – Complying Fund Rules – to be incorporated in the Trust Deed reads as follows:

Preamble – General Eligibility

Members of this Superannuation Scheme may elect to make contributions in accordance with this Schedule. In the event, that a member elects to make contributions pursuant to this Schedule the following provisions shall apply:

1. Lock-ins

Contributions made pursuant to this Schedule shall be locked-in in accordance with clauses 4(1) to (4), 7 and 9 of Schedule 1 of the KiwiSaver Act 2006.

2. Early withdrawals

Notwithstanding the withdrawal rights set out in Schedule 1, pursuant to clauses 8 and 10 to 14 of the KiwiSaver Act 2006, no such withdrawals shall be allowed, not in those circumstances nor in any other circumstances except those referred to in clause 1 above.

3. Transfer-out requirements

On request of the employee all or part of an employee's superannuation accumulation shall be transferred to another Complying Superannuation Fund or to a KiwiSaver scheme, provided that

- (a) in the case of a transfer to a KiwiSaver scheme, the requirements of the KiwiSaver Act 2006 are met.
- (b) In the case of a transfer to another Complying Superannuation Fund, the employee's superannuation accumulation is subject to Complying Fund Rules.

4. Cessation of eligibility

- (a) Notwithstanding the provisions set forth in clause 3 above, an employee's superannuation accumulation shall be transferred to a KiwiSaver scheme if the employee
 - (i) ceases to be eligible to be a member of this Complying Superannuation Fund; and
 - (ii) may not remain a member for any reason except a transfer in accordance with clause 3 above, and paragraph (b) below, or a withdrawal of all or part of an employee's accumulation in accordance with Complying Fund Rules.
- (b) An employee's superannuation accumulation shall be transferred to a KiwiSaver scheme, if the Government Actuary revokes approval of the superannuation fund as a Qualifying Superannuation Fund and the accumulation is not transferred to another Complying Superannuation Fund and is not subject to Complying Fund Rules.
- (c) In the event that the employee's superannuation accumulation must be transferred in accordance with paragraphs (a) and/or (b) above, prior notice shall be given to

the Commissioner of Inland Revenue, including the name, address, and tax file number of the employee, the name and address of their employer, and the name and tax file number of the employee's Complying Superannuation Fund.

5. Minimum contribution

- (a) If a member elects to make contributions pursuant to this schedule
 - (i) the discretion to elect the rate of contribution as set forth in the Fourth Schedule is removed and a minimum contribution of 4 % of annual gross base salary shall apply, and
 - (ii) each Member's contribution set forth in the fourth Schedule shall be reduced by 4%.
- (b) The employer's subsidisation in respect of any payment made pursuant to this clause shall be a dollar for dollar subsidy, provided that the additional subsidy of 0.52 for each member's dollar contributed as set out in clause 2 (a)(i) of the Fourth Schedule shall be added to the funds paid to the Scheme pursuant to the Fourth Schedule.
- (c) In the event, that a member has elected to make contributions in accordance with this Schedule, any amount contributed shall count to the maximum contributions permitted under clause 1 (b) of the Fourth Schedule.
- (d) For the calculation of contributions "annual gross base salary" means "salary" as defined in clause 1 of the Trust Deed.

6. Vesting of contributions

Any superannuation contribution that counts towards the total minimum superannuation contributions set out in clause 5 above, shall vest completely in the employee, immediately after the contribution is made.

7. Non-assignability

Any interest (or any future benefits that will or may become payable to a member) in the accumulations under this schedule must not be assigned or charged or passed to any other person whether by way of security, operation of law, or any other means, except if it is required by the provisions of any enactment (including a requirement by order of the Court under any enactment).

8. Commitment

Each member who elects to make contributions in accordance to this Schedule must commit to continue to be a member of this Complying Superannuation Fund in accordance with clauses 1 to 7 of this Schedule.

9. Non-derogation

Nothing contained in this Amending Deed shall derogate from the provisions described in Complying Fund Rules.

10. Calculation of contributions

For the purposes of calculating the benefits set forth in the third Schedule all contributions made under this Schedule and the Fourth Schedule shall be aggregated.

11. Rights of benefits

In the event, that a member has elected to make contributions in accordance with this Schedule, the rights of benefits are limited by and subject to the rules set forth in the Fifth Schedule.

IN WITNESS whereof this deed has been executed on the day first hereinbefore mentioned.

The Common Seal of NEW ZEALAND FIRE SERVICE COMMISSION was hereto affixed in the presence of:-

ANGELA JUNE FOULKES

EXECUTED by the said

VINCENT PATRICK ARBUCKLE
as Trustee in the presence of BARRY DENT

ATHOL DONALD CONWAY
as Trustee in the presence of BARRY DENT

DENIS JAMES FITZMAURICE
as Trustee in the presence of BARRY DENT

ALLAN JAMES KERRISK
as Trustee in the presence of BARRY DENT

TIMOTHY PATRICK McGUINNESS
as Trustee in the presence of BARRY DENT

STEPHEN COLIN WARNER
as Trustee in the presence of BARRY DENT

RUSSELL CLIFFORD WOOD
as Trustee in the presence of BARRY DENT

DEED AMENDING THE NEW ZEALAND FIRE SERVICE SUPERANNUATION SCHEME TRUST DEED

Parties

Athol Donald Conway, Denis James Fitzmaurice, Janine Hearn, Allan James Kerrisk, Timothy Patrick McGuinness, Stephen Colin Warner, Russell Clifford Wood (**Trustees**)
The New Zealand Fire Service Commission (**Commission**)

Background

- A By Trust Deed dated 2 December 1987 there was established the New Zealand Fire Service Commission Superannuation Scheme (**Scheme**), the provisions of which were amended by deed dated 4 July 1990, 25 July 1991, 25 March 1993, 13 August 1993, 4 September 1995, 16 December 1996, 14 December 2001, 10 June 2003, 1 July 2005, 21 December 2006 and 26 June 2007 (**Trust Deed**).
- B The Trustees are the present duly appointed Trustees of the Scheme.
- C In exercise of the powers conferred under clause 16 of the Deed the Commission and the Trustees have resolved to amend the provisions of the Trust Deed as hereinafter provided as a consequence of recent amendments to the KiwiSaver Act 2006.
- D The Trustees have obtained a certificate from a solicitor of the Scheme that the Trust Deed, if amended by this amending deed, will comply with section 7 of the Superannuation Schemes Act 1989 and will not contain any provision that is contrary to those implied by sections 8–10 of the said Act.

Operative provisions

1 Amendment

- 1.1 Pursuant to the power contained in clause 16 of the Trust Deed, the Trust Deed is amended as follows:
- 1.1.1 Clause 1 is amended by inserting the following new definitions:
- "Commission's Combined Accumulation"** means in respect of a member at any given date the sum of:
- (i) the Commission's Accumulation; and
 - (ii) the Commission's Complying Fund Accumulation.
- "Commission's Complying Fund Accumulation"** means in respect of a member at any given date the sum of
- (i) the contributions made by the Commission pursuant to Clause 5(b) of the Fifth Schedule of this Trust Deed during the Member's Service;
 - (ii) the amount of any Reserve Fund A monies distributed pursuant to Clause 19(a) of this Trust Deed as compound interest thereon at the rate or rates determined by the Trustees from time to time acting on the advice of the Scheme Administrator.

"Complying Fund Retirement Accumulation" means in respect of a member at any given date the sum of:

- (i) the Member's Complying Fund Accumulation; and
- (ii) the Commission's Complying Fund Accumulation.

"Member's Combined Accumulation" means in respect of a member at any given date the sum of:

- (i) the Member's Accumulation; and
- (ii) the Member's Complying Fund Accumulation.

"Member's Complying Fund Accumulation" means in respect of a member at any given date the sum of:

- (i) the contributions made by the Member pursuant to Clause 5(a) of the Fifth Schedule of this Trust Deed during the Member's Service;
- (ii) any Member Tax Credits received by the Scheme in respect of the Member during the Member's Service;

and

- (iii) the amount of any Reserve Fund A monies distributed pursuant to Clause 19(a) of this Trust Deed as compound interest thereon at the rate or rates determined by the Trustees from time to time acting on the advice of the Scheme Administrator.

"Member Tax Credit" means in respect of a Member at any given date any tax credit paid to the Scheme in respect of the Member in accordance with Section MK 1 (1) of the Income Tax Act 2007.

1.1.2 Clause 1 of the Third Schedule is deleted and replaced with the following:

1 **Retirement**

(a) If a Member retires from the Service on the Member's Normal Retirement Date there shall be payable for the Member's benefit a capital sum equal to the Member's:

- (i) Retirement Accumulation; plus
- (ii) Complying Fund Retirement Accumulation.

PROVIDED THAT the Complying Fund Retirement Accumulation shall only be paid in accordance with the Complying Fund Rules.

(b) If a Member retires from the Service with the consent of the Commission, on or after attaining age 50 before the Member's Retirement Date there shall be payable for the Member's benefit a capital sum equal to the Retirement Accumulation of the Member.

1.1.3 Clause 2 of the Third Schedule is deleted and replaced with the following:

2 **Death while in the Service**

(a) Subject to paragraph (b) of this clause, if a Member dies while in the Service and before reaching Normal Retirement Date, there shall be payable at the date of the Member's death a capital sum equal to the Member's:

- (i) Retirement Accumulation at the date of the Member's death; plus
- (ii) Complying Fund Retirement Accumulation at the date of the Member's death,

PROVIDED THAT the Complying Fund Retirement Accumulation shall only be paid in accordance with the Complying Fund Rules.

- (b) In the case of a Member for whom the aggregate of the Commission's Combined Accumulation plus the Member's Combined Accumulation does not equal two times the Member's Salary the following shall apply:
- (i) an additional payment shall be made from the Scheme such that the total benefit payable pursuant to the Scheme (hereinafter called the 'Total Benefit') shall be enhanced to an amount equal to two times the Member's Salary (hereinafter called the 'Minimum Benefit') at the date of the Member's death;
 - (ii) the difference between the Total Benefit and the Minimum Benefit shall be allocated from Reserve Fund B of the Scheme;
 - (iii) in the event of there being an insufficient amount in Reserve Fund B the shortfall shall be made up by way of a special contribution in accordance with clause 2(ii) of the Fourth Schedule of this Trust Deed.

PROVIDED THAT in the case of a Member who was an Employee on the Commencing Date or who joined the Scheme after 1 August 1993 and who at the date of the Member's death was contributing pursuant to clause 1(b) of the Fourth Schedule, or pursuant to both clause 1(b) of the Fourth Schedule and clause 5(a) of the Fifth Schedule of this Trust Deed, at a total combined rate that is less than 6% of the Member's Salary, any Minimum Benefit payable pursuant to this clause shall be pro rated accordingly.

1.1.4 Clause 3 of the Third Schedule is deleted and replaced with the following:

3 Loss of Medical Fitness

- (a) Subject to paragraph (b) of this Clause, if a Member is required to leave the Service before the Member's Normal Retirement Date due to the Member being certified by two medical practitioners, nominated by the Commission, to be substantially medically unfit to perform any specified duties in the New Zealand Fire Service which the Commission considers suitable for the Member, there shall become available for the Member's benefit a capital sum equal to the Member's:
- (i) Retirement Accumulation; plus
 - (ii) Complying Fund Retirement Accumulation,

PROVIDED THAT the Complying Fund Retirement Accumulation shall only be paid in accordance with the Complying Fund Rules.

- (b) In the case of a Member for whom the aggregate of the Commission's Combined Accumulation plus the Member's Combined Accumulation does not equal two times the Member's Salary the following shall apply:
 - (i) an additional payment shall be made from the Scheme such that the total benefit payable pursuant to the Scheme (hereinafter called the 'Total Benefit') shall be enhanced to an amount equal to two times the Member's Salary (hereinafter called the 'Minimum Benefit') at the date of determination;
 - (ii) the difference between the Total Benefit and the Minimum Benefit shall be allocated from Reserve Fund B of the Scheme;
 - (iii) in the event of there being an insufficient amount in Reserve Fund B the shortfall shall be made up by way of a special contribution in accordance with clause 2(ii) of the Fourth Schedule of this Trust Deed.

PROVIDED THAT in the case of a Member who was an Employee on the Commencing Date or who joined the Scheme after 1 August 1993 and who is contributing pursuant to clause 1(b) of the Fourth Schedule, or pursuant to both clause 1(b) of the Fourth Schedule and clause 5(a) of the Fifth Schedule of this Trust Deed, at a total combined rate that is less than 6% of the Member's Salary, any Minimum Benefit payable pursuant to this clause shall be pro rated accordingly.

AND PROVIDED FURTHER THAT in the case of a Member who is within 24 calendar months of the Member's Normal Retirement Date and who would ordinarily have remained an Employee and who would not have earned the equivalent of two times annual salary the Total Benefit payable will be enhanced only to the salary the Member could have earned if the Member had remained in the Service of the Commission.

1.1.5 Clause 4 of the Third Schedule is deleted and replaced with the following:

4 **Loss of Physical Fitness**

If a Member is required to leave the Service before the Member's Normal Retirement Date due to the Member being unable to meet the physical fitness standards required by the Commission and in the opinion of the Commission is unable to or does not respond to remedial action, there shall be made available for the Member's benefit a capital sum equivalent to the amounts provided for loss of medical fitness pursuant to clause 3 herein PROVIDED THAT the Complying Fund Retirement Accumulation shall only be paid in accordance with the Complying Fund Rules.

1.1.6 Clause 1 of the Fifth Schedule is deleted and replaced with the following:

1 **Lock-ins**

Contributions made pursuant to this Schedule shall be locked-in in accordance with the provisions of clauses 4(1) to 4(5) of Schedule 1 of the KiwiSaver Act 2006. Contributions made pursuant to this Schedule may only be withdrawn in accordance with clauses 4(3), 7 and 9 of Schedule 1 to the KiwiSaver Act 2006.

1.1.7 A new clause 1A is added to the Fifth Schedule as follows:

1A **Member Tax Credits**

For the purposes of clause 1 of this Schedule, any Member Tax Credit paid to the Scheme in respect of a Member shall be deemed to be a contribution made pursuant to this Schedule.

1.1.8 Clause 2 of the Fifth Schedule is deleted and replaced with the following:

2 **Early withdrawals**

Notwithstanding the withdrawal rights set out in clauses 8 and 10 to 14 of Schedule 1 of the KiwiSaver Act 2006, no such withdrawals shall be allowed, except where the Trustees determine that a benefit is payable in accordance with clause 3 or clause 4 of the Third Schedule. Withdrawals will not be allowed in any other circumstances except those referred to in clause 1 above.

1.1.9 Clause 5(a) of the Fifth Schedule is deleted and replaced with the following:

- (a) (i) If a Member elects to make contributions pursuant to this clause, then:
- (A) the discretion to elect the rate of contribution as set forth in the Fourth Schedule is removed and a minimum contribution of 4% of annual gross base salary shall apply in respect of the relevant Member; and
 - (B) each Member's contribution set forth in the Fourth Schedule shall be reduced by 4%,

unless, after 31 March 2009, the relevant Member elects to contribute pursuant to clause 5(a)(ii) of this Schedule.

- (ii) From 1 April 2009 new and existing Members may elect to begin making contributions pursuant to this clause (and Members may elect to stop making contributions pursuant to clause 5(a)(i) and begin making contributions pursuant to this clause), and where a Member makes such election:
- (A) the discretion to elect the rate of contribution as set forth in the Fourth Schedule is removed and a minimum contribution of 2% of annual gross base salary shall apply in respect of the relevant Member; and
 - (B) each member's contribution set in the Fourth Schedule shall be reduced by 2%.

1.1.10 Clause 5(b) of the Fifth Schedule is deleted and replaced with the following:

- (b) (i) The employers subsidisation in respect of any payment made pursuant to clause 5(a)(i) up to an amount equal to 2% of the relevant Member's gross base salary shall be dollar for dollar. An additional subsidy of 0.52 dollars for each Member's dollar contributed up to an amount equal to 2% of the Member's gross base salary shall be added to the funds paid to the Scheme pursuant to the Fourth Schedule.

In respect of each dollar contributed by the Member pursuant to clause 5(a)(i) in excess of 2% of the Member's gross base salary, an employer subsidisation

of 1.52 dollars shall be added to the funds paid to the Scheme pursuant to the Fourth Schedule.

- (ii) The employers subsidisation in respect of any payment made pursuant to clause 5(a)(ii) shall be a dollar for dollar subsidy, provided that the additional subsidy of 0.52 for each member's dollar contributed as set out in clause 2(a)(i) of the Fourth Schedule shall be added to the funds paid to the Scheme pursuant to the Fourth Schedule.

2 Confirmation of the Trust Deed

- 2.1 In all other respects the provisions of the Trust Deed are confirmed except to the extent that they contradict or conflict with the terms of this Deed.

3 Interpretation

- 3.1 Definitions used in this Deed shall have the same meaning as in the Trust Deed.

Execution and date

Executed as a Deed.

Date: 11 May 2009.

The common seal of New Zealand Fire Service Commission was affixed in the presence of:

M C Bazley

Signed by the said

Athol Donald Conway

as Trustee in the presence of BARRY DENT

Denis James Fitzmaurice

as Trustee in the presence of BARRY DENT

Janine Hearn

as Trustee in the presence of BARRY DENT

Allan James Kerrisk

as Trustee in the presence of BARRY DENT

Timothy Patrick McGuinness

as Trustee in the presence of BARRY DENT

Stephen Colin Warner

as Trustee in the presence of BARRY DENT

Russell Clifford Wood

as Trustee in the presence of ALLAN MERRY