

SELF MANAGED SUPERANNUATION FUND DEED UPGRADE INSTRUCTION SHEET

MJHC LEGAL LAWYERS

Superannuation · Property · Wills · Commercial

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A. ADVISOR/PERSON ORDERING DEED:

Enquiries, documents, invoices will be directed to this person, unless otherwise stated

Person Ordering:			
Firm Name:			
Street Address:			
Telephone:		Fax:	
Email:		Signature:	

B. FUND NAME:

Fund/Trust Name:	
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C. REQUIRED INFORMATION:

Was the existing trust deed established or amended by MJHC Legal? Yes ☐ No ☐

You must forward signed and dated page extracts for deeds prepared by MJHC Legal. In all other cases, you must forward a complete set of all trust deed documents including changes to Trustees.

The original deed which set up the Fund was dated:
DD/MM/YYYY

The fund commencement date specified in the original deed was:
(this may or may not be the same date as the date of the original deed) DD/MM/YYYY

Any Deeds of Amendment or Variation are dated:
(go to Part M. Additional Information if insufficient space) DD/MM/YYYY DD/MM/YYYY DD/MM/YYYY

Any Deeds that certified/ratified prior documents are dated:
(go to Part M. Additional Information if insufficient space) DD/MM/YYYY DD/MM/YYYY DD/MM/YYYY

Are all the above documents enclosed with this form? Yes ☐ No ☐

If Yes, are these documents to be returned? Yes ☐ No ☐

When is the meeting date?
(This is the date the individuals involved met and decided to upgrade the fund rules.(see Part Q. Important Information))
DD/MM/YYYY

or for client flexibility is date to be left blank? Yes ☐ No ☐

When is the amendment to commence?
(this may be before or after the meeting date)
DD/MM/YYYY

or for client flexibility is date to be left blank? Yes ☐ No ☐

Is replacement or additional Trustee documentation required? * Yes ☐ No ☐

If Yes, fill in the SMSF Appointment Instruction Sheet

Is replacement or additional Founder documentation required? * Yes ☐ No ☐

If Yes, fill in the SMSF Appointment Instruction Sheet

Is additional Member documentation required? * Yes ☐ No ☐

If Yes, fill in the SMSF Appointment Instruction Sheet

***Note:** An additional fee will apply for any required additional documents

D. TRUSTEE DETAILS:

Is the Trustee a company or individuals: company ☐ individual ☐
If company, complete Part E. then proceed to Part F. If individuals, proceed to Part F.

E. COMPANY TRUSTEE:

Company Name:		ACN:	
Street Address:			

F. INDIVIDUALS INVOLVED:

Unless the fund presently uses a MJHC Legal Deed, it will be necessary to appoint or nominate a Founder(s) of the Fund. See Part Q. Important Information on the role of Founder. If the Founder is not an individual involved in this Part F. Individuals Involved, complete details in Part G. Non-Member Founder. All members will be assumed present at meeting unless otherwise stated.

1.	Full Name:			
	Street Address:			
	Gender:	male: ☐	female: ☐	DOB: DD/MM/YYYY
	This person is a:	founder: ☐	member: ☐	sole member: ☐ individual trustee: ☐ sole director: ☐ director: ☐
		If trustee director, date of director appointment: DD/MM/YYYY		
	If the sole director, are they also the sole company secretary?	Yes ☐	No ☐	
	If No, is there a separate company secretary?	Yes ☐	No ☐	
	If Yes, name of company secretary:			
	Meeting attendance:	In person ☐	By telephone ☐	Via webcam ☐ Not Present in any capacity ☐
	Select each check box that is relevant for the roles performed by all individuals			
2.	Full Name:			
	Street Address:			
	Gender:	male: ☐	female: ☐	DOB: DD/MM/YYYY
	This person is a:	founder: ☐	member: ☐	individual trustee: ☐ director: ☐
		If trustee director, date of director appointment: DD/MM/YYYY		
	Meeting attendance:	In person ☐	By telephone ☐	Via webcam ☐ Not Present in any capacity ☐
3.	Full Name:			
	Street Address:			
	Gender:	male: ☐	female: ☐	DOB: DD/MM/YYYY
	This person is a:	founder: ☐	member: ☐	individual trustee: ☐ director: ☐
		If trustee director, date of director appointment: DD/MM/YYYY		
	Meeting attendance:	In person ☐	By telephone ☐	Via webcam ☐ Not Present in any capacity ☐
4.	Full Name:			
	Street Address:			
	Gender:	male: ☐	female: ☐	DOB: DD/MM/YYYY
	This person is a:	founder: ☐	member: ☐	individual trustee: ☐ director: ☐
		If trustee director, date of director appointment: DD/MM/YYYY		
	Meeting attendance:	In person ☐	By telephone ☐	Via webcam ☐ Not Present in any capacity ☐

G. NON-MEMBER FOUNDER:

Is there currently or to be appointed a Founder who is not included in Part F. Individuals Involved?		Yes ☐	No ☐
If yes, complete the following			
Name:		DOB: (if applicable)	 DD/MM/YYYY
Street Address:			
ACN: (if applicable)			
Is this Founder a company?	Yes ☐	No ☐	
If yes, provide names of directors:			
If a sole director company, is the sole director also the sole company secretary?	Yes ☐	No ☐	
If No, provide details of the company secretary in Part M. Additional Information			
Address for meeting of Founder:			

H. PRINCIPAL/EMPLOYER:

Is there a Principal/Employer identified in the current superannuation documentation?

Yes ☐ No ☐

Unless you otherwise specify in Part G. Non-Member Founder, any Principal/Employer will have no further direct involvement in the future administration of the Fund. See Part Q. Important Information on role of Founder

If yes, complete the following

Name: ACN: (if applicable)

Street Address:

Is this Principal/Employer a company? Yes ☐ No ☐

If yes, provide names of directors:

If a sole director company, is the sole director also the sole company secretary? Yes ☐ No ☐

If No, provide details of the company secretary in Part M. Additional Information

Address for meeting of Principal/Employer :

I. APPLICABLE LAW:

Which State or Territory laws do you wish to apply to the Fund?

- Current Address of the Founder: Yes ☐ No ☐

If No, please specify which State/Territory

- Specific State/Territory:

(see Other Issues in Part Q. Important Information)

J. FOR MINUTES OF MEETING:

Place of Meeting: Address of Individual 1 unless otherwise stated

Name of Chairperson: Individual 1 unless otherwise stated

If not all Trustees/directors were present at Meeting you **must** select one of the following options:

☐ The absent Trustees/directors attended by telephone/webcam:

OR

☐ Circulating Resolutions required for signature by all Trustees/directors:

(See Part Q. Important Information)

K. CONSENTS REQUIRED:

To amend the existing trust deed, consents are required from: (check variation/amendment clause in existing deed)

Trustee: ☐ Founder: ☐ Member: ☐ Principal: ☐ Employer: ☐

L. REPRESENTATIVE CAPACITY:

Is any trustee acting as the legal personal representative of a member or a former member?

Yes ☐ No ☐

If Yes, provide details in Part M. Additional Information

M. ADDITIONAL INFORMATION:

N. DOCUMENT DELIVERY:

Prepared documents are to be sent by:

email: ☐

mail: ☐

express post: ☐

Additional Fee of \$18.50 applies

O. PAYMENT DETAILS:

Payment of Invoice is required before document package delivery unless other arrangements are in place.

Credit Card and bank deposit/internet banking options will be set out in the Invoice.

P. COMPLETED INSTRUCTIONS:

Please forward completed instructions to MJHC Legal:

email: ca@mjhlegal.com

mail: PO Box 412, Mount Waverley VIC 3149

Print and review your instructions before submitting and retain printed copy for your file. Adobe Reader will not allow you to save the data in this form.

The Email button will forward your completed Instruction Form to MJHC Legal.

The Reset button will clear all data in the form.

If the existing deed was not prepared or amended by MJHC Legal you must submit the completed instruction form by mail together with copies of all documentation referred to in Part C.

In submitting the completed Instruction Form, the person described in Part A authorises MJHC Legal to prepare the deed upgrade documentation and agrees to pay the Fee payable for deed upgrade. You understand that typing/spelling errors or incorrect information given is your responsibility.

Print Form

Submit by Email

Reset

Q. IMPORTANT INFORMATION:

Role of Founder

To assist in the orderly administration of a Self Managed Superannuation Fund, documentation prepared by MJHC Legal operate with an individual or company performing the role of Founder.

Powers

The role of Founder is a significant one and includes the following important powers:-

1. The Founder has the power to remove and appoint new or additional Trustees.
2. Gives consent to any amendments or variations of the Trust Deed and Rules governing the Fund.
3. Can pass on the role of Founder to others by Deed or by the Founder's Will.
4. Can require the Fund to be wound up.

Who is the Founder

Usually, the Founder will be one of the Members of the Fund. There may be more than one Founder with the powers of the Founder being exercised jointly. A Founder need not necessarily be a Member of the Fund. A Founder may be an employer company or a company associated with the Members.

The Founder and the Appointment and Removal of Trustees

One of the key roles of the Founder is to ensure that in conjunction with the Trustees, your Self Managed Superannuation Fund complies with the legal requirements of the laws governing Self Managed Superannuation Funds and the appointment and removal of Trustees. For this reason, the Founder is empowered to remove and replace Trustees. This will ensure that at all times Members of the Fund are also Trustees or Directors of a Corporate Trustee as required by the laws governing Superannuation Funds. Details of the power of the Founder concerning the retirement, removal and appointment of Trustees are set out in the upgraded Rules governing the Superannuation Fund.

Death or Retirement of the Founder

The upgraded Rules of your Superannuation Fund also govern the resignation or, if an individual, the death of the Founder. A Founder can appoint a substitute Founder by a Deed of Appointment or under the terms of a Will. Often the substitute Founder, if an individual, will be the Executor named in the Founder's Will. Care should be taken in identifying and nominating a substitute Founder due to the rights and responsibility of the role.

If there is no nominated Founder and no replacement appointed, the Legal Personal Representative of the last named Founder will assume the role of Substitute Founder. If there is at any time no Founder, the Trustees may with the consent of Members of the Fund appoint in writing a replacement Founder. If there are no Members, the Trustees will assume the role of Founder.

Effective Dates

The Fund must resolve to amend the current documents. The date the parties meet will also be the date of the deed upgrade. However, the date on which the amendment takes effect can be a past or future date. For example, if there has been member contribution splitting, you should ensure that the effective date of the amendment is a date prior to the contribution split occurring.

Meeting & Resolutions

It is not always a legal requirement that individuals physically attend a meeting of trustees or directors of a corporate trustee. Most modern trust deeds and company constitutions permit teleconferencing. Attendance by telephone can be a convenient method of meeting where parties are physically separated. You must indicate whether or not a party was or will be physically present at a meeting.

A circulating resolution is an alternative to attendance at a meeting in person or by telephone. A circulating resolution requires all parties to sign and date the resolution. It is also necessary for the parties to be provided with all relevant material relating to the resolution. This may not always be convenient or a secure means of safeguarding the material.

Importantly, a circulating resolution does not have any legal effect until the resolution is signed and dated by all required parties. It will also only be effective from the date on which the last signature is obtained to the circulating resolution. For these reasons, physical or telephone attendance at a meeting is preferred over a circulating resolution.

Other Issues

- Unless otherwise stated, your Self Managed Superannuation Fund is governed by the laws applicable to the laws of the State or Territory of the address disclosed in the documents for the Founder.
- Duty may be payable on the deed amendment in the State or Territory whose laws are to apply to the Fund.
- Further information about the Role of Founder is included in the documentation prepared as part of the Fund upgrade.

DISCLAIMER:

MJHC Legal prepares documentation based on your written instructions. MJHC Legal is not licensed to provide financial product advice. The rules concerning Self Managed Superannuation Funds change and it may be advisable to request specific advice.

Liability limited by a scheme approved under Professional Standards Legislation