

NORTHERN TERRITORY OF AUSTRALIA

SUPERANNUATION ACT 1986

As in force at 3 March 2023

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 3 March 2023

SUPERANNUATION ACT 1986

An Act to provide for the administration of various superannuation schemes for certain public sector employees and other persons, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Superannuation Act 1986*.

2 Commencement

- (1) Sections 1 and 2 shall come into operation on the day on which the Administrator's assent to this Act is declared.
- (2) The remaining provisions of this Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Interpretation

- (1) In this Act:

accumulation account means an account kept in the name of a member or adherent of the NTGPAS Scheme in the successor fund mentioned in section 45DE or a complying superannuation fund standing to the credit of the member or adherent.

adherent, of the NTGPAS Scheme, means a person who is not an eligible employee (and hence not a member of that Scheme) but in whose name an account exists in the NTGPAS Scheme.

approved means approved by the Commissioner.

ATO means the Commonwealth Commissioner of Taxation.

Commissioner means the Commissioner of Superannuation appointed under section 4, and includes a person appointed under section 5 to act as the Commissioner while the person is acting as the Commissioner.

complying superannuation fund, see section 995-1(1) of the *Income Tax Assessment Act 1997* (Cth).

dependant, see section 3AA.

eligible employee means a permanent employee employed in a full time or part time capacity whose last period of continuous employment as a permanent employee commenced before the commencement of the *Superannuation Amendment Act 2004*, other than:

- (a) an employee, or a member of a prescribed class of employees, declared in writing for the purposes of this paragraph by the Commissioner; or
- (b) a subscriber to or a member of a superannuation scheme, not being:
 - (i) the NTGPAS Scheme; or
 - (ii) a superannuation scheme, or one of a class of superannuation schemes, declared in writing for the purposes of this subparagraph by the Commissioner; or
 - (iii) a superannuation scheme where no benefits are directly or indirectly provided or contributed to by any employer; or
- (c) an employee who, under the Rules, ceases to be an eligible employee as a result of electing to take a benefit while still a permanent employee; or
- (d) a person employed in or appointed to an office established by name by an Act (unless the office is declared in writing by the Commissioner not to be an office for the purposes of this paragraph), who is not:
 - (i) a Chief Executive Officer or employee, as defined in the *Public Sector Employment and Management Act 1993*; or
 - (ii) an officer or employee of the Northern Territory Teaching Service; or
 - (iii) a member of the Police Force.

exempt public sector superannuation scheme, see section 10 of the SIS Act.

LAMS Scheme means the scheme established under the *Legislative Assembly Members' Pensions Act 1979*.

NTGDI Scheme means the Northern Territory Government Death and Invalidity Scheme.

NTGPAS Scheme means the Northern Territory Government and Public Authorities' Superannuation Scheme.

NTG scheme means one of the following:

- (a) the NTGPAS Scheme;
- (b) the NTGDI Scheme;
- (c) the LAMS Scheme;
- (d) the NTSS Scheme;
- (e) any other superannuation scheme administered by the Commissioner with the approval of the Minister.

NTSS Scheme means the Northern Territory Supplementary Superannuation Scheme established by instrument made by the Treasurer and dated 4 January 1989.

permanent employee means:

- (a) a person who is employed, whether or not on probation, as:
 - (i) a Chief Executive Officer or employee, as defined in the *Public Sector Employment and Management Act 1993*; or
 - (ii) an officer or employee of the Northern Territory Teaching Service; or
 - (iii) a member of the Police Force,otherwise than on a tenure expressed to be for a period of less than 6 months; or
- (b) a person (other than a person described in paragraph (a) of this definition) who is employed on a contract of service by the Territory or by a public authority, not being a contract of service that is expressed to be for a term of less than 6 months, whether the terms and conditions of the person's employment are set out in the contract or fixed by or under an Act; or

(c) in relation to so much of the period of the person's employment as is continuous employment by the Territory or a public authority after the expiration of the period of 6 months of such continuous employment, a person:

- (i) described in paragraph (a) of this definition; or
- (ii) employed on a contract of service by the Territory or by a public authority,

whose tenure is expressed to be for a period of less than 6 months but who is employed for a continuous period of not less than 6 months by the Territory or a public authority.

public authority means:

- (a) an Agency (whether its nomination in an Administrative Arrangements Order is as an Agency for the purposes of the *Public Sector Employment and Management Act 1993*, the *Financial Management Act 1995* or both); or
- (b) an authority or body classified by the regulations as a public authority.

reviewable decision, for Part 5A, see section 49B.

Rules means the *Northern Territory Government and Public Authorities' Superannuation Scheme Rules 1986*.

Scheme means (according to context):

- (a) the NTGPAS Scheme; or
- (b) the NTGDI Scheme.

SIS Act means the *Superannuation Industry (Supervision) Act 1993* (Cth).

spouse includes a de facto partner.

superannuation contributions surcharge means the superannuation contributions surcharge imposed under the Surcharge Act.

Surcharge Act means the *Superannuation Contributions Tax Imposition Act 1997* of the Commonwealth and includes regulations under that Act.

Surcharge Collection Act means the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* of the Commonwealth and includes regulations under that Act.

Tribunal, for Part 5A, see section 49A.

- (2) If in the definition of **eligible employee** in subsection (1) reference is made to an employee or class of employees, a superannuation scheme or an office declared in writing by the Commissioner, that employee or class of employees, scheme or office may be so declared by the Commissioner:
- (a) in the case of the declaration of an employee – by notice in writing to the employee; and
 - (b) in any other case – by *Gazette* notice.
- (3) A declaration under subsection (2) takes effect or is taken to have effect, as the case may be, on and from the date specified in the relevant notice.

Note for section 3

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

3AA Meaning of dependant

- (1) In this Act:

dependant, in relation to a person, includes the following:

- (a) a spouse of the person;
 - (b) a child of the person;
 - (c) a person with whom the person has, in the Commissioner's opinion, an interdependency relationship (as defined in section 10A of the SIS Act).
- (2) A reference in this Act to a dependant of a person who is dead, is a reference to a person who was a dependant of the person immediately before his or her death.

3A Schemes to be administered in accordance with agreements with the Commonwealth

The NTGPAS Scheme and the NTGDI Scheme are to be administered in accordance with a written agreement entered into by the Territory and the Commonwealth relating to exempt public sector superannuation schemes.

3B Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 3B

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 2 Administration

Division 1 Commissioner of Superannuation

4 Commissioner

There shall be a Commissioner of Superannuation who shall be appointed by the Administrator.

5 Acting appointment

The Minister may appoint a person to act from time to time as the Commissioner during the absence from duty or from the Territory of the Commissioner or a vacancy in the office of Commissioner.

6 Functions and powers of Commissioner

- (1) The functions of the Commissioner are:
 - (a) to administer the NTG Schemes; and
 - (b) with the approval of the Minister, to administer any other superannuation scheme; and
 - (c) any other functions imposed by or under this or any other Act.
- (2) The Commissioner has the powers necessary to perform the Commissioner's functions.

7 Delegation

The Commissioner may delegate any of the Commissioner's powers and functions under this Act to a person.

Part 3 Northern Territory Government and Public Authorities' Superannuation Scheme

Division 1 The Scheme

25A References to the Scheme

In this Part, references to the **Scheme** are references to the NTGPAS Scheme.

26 Membership

- (1) All eligible employees are members of the Scheme.
- (2) An eligible employee must pay to the employee's accumulation account the contributions required by the Rules.
- (3) An eligible employee, former eligible employee or a dependant of an eligible employee or former eligible employee shall be entitled to receive benefits under the Scheme in accordance with this Part and the Rules.

28A Surcharge debt accounts

- (1) The Commissioner must establish and maintain for the purposes of section 16 of the Surcharge Collection Act a surcharge debt account for each eligible employee or former eligible employee in relation to whom superannuation contributions surcharge is paid or payable by the Commissioner.
- (2) The Commissioner must debit to the surcharge debt account of an eligible employee or former eligible employee:
 - (a) superannuation contributions surcharge paid or payable by the Commissioner in respect of the employee; and
 - (b) interest paid or payable under the Surcharge Collection Act on the amount by which the account is in debit.
- (3) The Commissioner must credit to the surcharge debt account of an eligible employee or former eligible employee an amount paid under section 28B by the employee.

28B Advance payments to reduce superannuation contributions surcharge

- (1) An eligible employee or former eligible employee may, on lodging an approved election form with the Commissioner, pay an amount to the Central Holding Authority for the purpose of reducing the amount by which his or her surcharge debt account is in debit.
- (2) A payment under this section may be made on a periodic or single payment basis.
- (3) An election form lodged under subsection (2) is to specify the amount to be paid and the manner of payment.
- (4) An eligible employee or former eligible employee may, on lodging an approved election form with the Commissioner:
 - (a) vary in accordance with the form the amount or manner of payment of periodic payments; or
 - (b) revoke an election under this section.

29 Payment of employer-financed benefits

All employer-financed benefits payable under the Scheme are to be paid from the Central Holding Authority, which is appropriated to the extent necessary to make those payments.

30 Commissioner may recover employer-financed benefits on behalf of Territory

- (1) Subject to subsections (2) and (3), if an employer-financed benefit is payable in respect of a person who is or was an eligible employee of a public authority, the public authority must pay the Central Holding Authority the amount of the benefit, less any amount specified by the Minister.
- (2) The Minister may require a public authority to enter into an arrangement with the Territory to make regular instalment payments to the Central Holding Authority, in lieu of a single payment under subsection (1), if the Minister is satisfied that the arrangement has a fair basis for the payments.
- (2A) A public authority may use any moneys under its control to pay amounts under subsection (1) or (2).

- (3) The Minister may, by notice in writing to the authority, exempt a public authority from its obligation to make a payment under subsection (1) and the authority, accordingly, shall not be required to make that payment.

37 Rules

- (1) The Rules set out in the Schedule are, until amended in accordance with this section, the Scheme Rules.
- (2) The Minister may, by notice in the *Gazette*, make rules not inconsistent with this Act, the Regulations or an agreement, approved by the Minister, with the administrators, trustees or controlling body of another superannuation scheme, amending the Rules.
- (4) Sections 63A to 63C of the *Interpretation Act 1978* apply to and in relation to rules made under subsection (2) as if they were rules forwarded to the Minister, on the date on which they were made, by some other person with a power under this Act to make them.
- (6) For section 57A of the *Interpretation Act 1978*, the Rules are a statutory instrument under an Act.

Division 2 Administration of Scheme

38 Discontinuance of Fund

The Northern Territory Government and Public Authorities Employees' Superannuation Fund is discontinued.

39 Recovery of money owing by employees

- (1) The Commissioner may recover money owing to an accumulation account by an eligible employee or other person.
- (2) The amount may be recovered as if it were a debt due and payable to the Territory, except in the case of unpaid contributions.
- (3) In the case of an eligible employee, the amount may be recovered:
- (a) by deduction from the employee's salary in accordance with subsection (4); and
 - (b) by such instalments, and at such times, as the Commissioner determines as if the amount were public moneys within the meaning of the *Financial Management Act 1995*; and

- (c) in accordance with the Treasurer's directions under section 38 of that Act.
- (4) An employer must, at the request in writing of the Commissioner:
 - (a) make deductions from an eligible employee's salary under subsection (3)(a); and
 - (b) pay the amount of the deductions to the employee's accumulation account.
- (5) An amount deducted and paid under subsection (4) is taken to have been paid to the accumulation account by the eligible employee from whose salary the deduction was made.
- (6) Any other amount recovered under this section from a person is to be paid to the person's accumulation account.

40 Annual report

- (1) The Commissioner must prepare, for the Minister, an annual report on the operation and management of each NTG Scheme during the financial year.
- (2) The annual report must be given to the Minister within 6 months after the end of the financial year or within such other period as determined by the Minister.
- (3) The Minister must table the report in the Legislative Assembly within 6 sitting days after the Minister receives it.

Division 4 Splitting of superannuation under Family Law Act

45B Definitions

In this Division:

Family Law Act means the *Family Law Act 1975* of the Commonwealth and includes regulations made under that Act.

member spouse, in relation to a superannuation interest, means the person who is the member spouse in relation to that interest under Part VIII B of the Family Law Act.

non-member spouse, in relation to a superannuation interest, means the person who is the non-member spouse in relation to that interest under Part VIII B of the Family Law Act.

splitting instrument means a superannuation agreement, a flag lifting agreement that provides for a payment split, or a splitting order, each within the meaning of Part VIIIB of the Family Law Act.

superannuation interest means an interest that a person has under this Act.

45C Scheme to comply with Family Law Act provisions in relation to superannuation

- (1) This section applies despite any other provision of this Act.
- (2) This Act is to be administered in accordance with the provisions of the Family Law Act relating to superannuation.
- (3) Subject to the provisions of the Family Law Act relating to superannuation, this Act is to be administered in relation to a person in accordance with the provisions of a splitting instrument, if any, that applies in relation to the person.
- (4) The Commissioner may prepare written administrative instructions that are necessary or convenient to give effect to:
 - (a) the provisions of the Family Law Act relating to superannuation; and
 - (b) splitting instruments; and
 - (c) Acts of the Commonwealth relating to superannuation and regulations under those Acts.
- (5) Without limiting the generality of subsection (4), administrative instructions for the purposes of that subsection may include, but are not limited to, the following:
 - (a) the methods of calculating and paying a superannuation interest to member spouses and non-member spouses, including calculations that may reduce the superannuation interest of a member spouse;
 - (b) the establishing of interests and accounts for non-member spouses under section 45D.
- (6) An administrative instruction prepared under subsection (4) takes effect on the date specified in the instruction.

- (7) If a provision of this Act or the administrative instructions made under this section is inconsistent with:
- (a) a provision of the Family Law Act relating to superannuation; or
 - (b) a splitting instrument,
- the provision of this Act or the administrative instructions is taken to have been complied with if the provision of the Family Law Act or a splitting instrument, as the case may be, has been complied with.
- (8) If a provision of the Rules is inconsistent with a provision of the administrative instructions prepared under this section, the provision of the administrative instructions prevails to the extent of the inconsistency.

45D Accounts for non-member spouses

- (1) The Commissioner may, on request, establish a separate account in the accounts of the Scheme to administer an amount to which a person is entitled as a non-member spouse under this Act.
- (2) An account established under subsection (1) is subject to the Rules.

Division 5 Release of amounts to pay tax debts

45DA Definitions

In this Division:

account holder means an eligible employee or adherent.

release amount, see section 45DC.

release authority means an authorisation:

- (a) issued under provisions of a Commonwealth Act that are prescribed by regulation for this definition; and
- (b) authorising the Commissioner to release an amount from an account holder's entitlements under the Scheme.

45DB Release of amount on issue of release authority by ATO

- (1) This section applies if:
 - (a) the ATO issues a release authority for an account holder; and

- (b) the release authority is given to the Commissioner in accordance with the relevant Commonwealth Act and the Rules.
- (2) On receipt of the release authority, the Commissioner may pay the release amount:
- (a) to the ATO; or
 - (b) if the relevant Commonwealth Act permits and the account holder so requests – to the account holder.

45DC Release amount

The **release amount** is the least of the following:

- (a) the amount authorised by the release authority to be paid;
- (b) the amount the account holder or ATO requests to be paid;
- (c) if the account holder is entitled to immediate payment of a benefit under the Scheme – the amount of the benefit.

45DD Effect of releasing benefit

If the Commissioner pays an amount to the ATO or an account holder under section 45DB(2) and the account holder is entitled to immediate payment of a benefit under the Scheme, the amount of the benefit is reduced by the amount paid under section 45DB(2).

Division 6 Transfer of benefits

45DE Transfer to successor fund

- (1) The Commissioner may transfer the benefits of members and adherents to a superannuation fund that is a successor fund for members and adherents.
- (2) A superannuation fund is a **successor fund** for members and adherents if the Trustee Board and Commissioner:
 - (a) are satisfied that the fund confers on a member of that fund rights in respect of benefits equivalent to those that the member and adherent have under the Scheme; and
 - (b) have agreed with the trustee of the fund that those equivalent rights will be conferred on members and adherents if their benefits are transferred to the fund.

- (3) The Commissioner may transfer the benefits of members and adherents to a successor fund without their consent.
- (4) However, if the successor fund is a registrable superannuation entity that is a regulated superannuation fund or an approved deposit fund, the Commissioner must not transfer a benefit unless the successor fund is registered under Part 2B of the SIS Act.
- (5) In this section:

approved deposit fund, see section 10(1) of the SIS Act.

benefit, in relation to a member or adherent, means the balance of the member's or adherent's accumulation account prior to the transfer to a successor fund.

registrable superannuation entity, see section 10(1) of the SIS Act.

regulated superannuation fund, see section 10(1) of the SIS Act.

45DF Payment to eligible rollover fund

- (1) The Commissioner may pay the benefits of adherents to an eligible rollover fund if:
 - (a) the Commissioner would be entitled to do so under section 243 of the SIS Act, assuming that the Scheme is a superannuation fund to which that section applies; and
 - (b) the Commissioner has approved the eligible rollover fund as one to which benefits may be paid under this section.
- (2) Section 243 of the SIS Act applies in relation to the payment, with the necessary changes.
- (3) In this section:

benefit, in relation to an adherent, means the adherent's interest in the Scheme.

eligible rollover fund, see section 10(1) of the SIS Act.

45DG Acquisition on just terms

If the operation of this Division would, apart from this section, result in an acquisition of property from a person otherwise than on just terms:

- (a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and
- (b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

Part 4 Northern Territory Government Death and Invalidation Scheme

Division 1 Preliminary

45E Definitions

- (1) In this Part:

approved allowances means allowances or entitlements that are, by determination of the Commissioner under subsection (2), to be taken into account in determining the member's benefit salary.

benefit salary means:

- (a) for a member employed under an Executive Contract of Employment:
 - (i) in the case of a member employed on a full-time basis – the member's notional salary (as defined in the contract) as at the member's exit date or such other amount as may be determined by the Commissioner; or
 - (ii) in the case of a member employed on a part-time basis – the full-time equivalent of the member's notional salary (as defined in the contract) as at the member's exit date or such other amount as may be determined by the Commissioner; or
- (b) for a member employed in the Police Force (other than a police auxiliary or a person employed under an Executive Contract of Employment) – an amount calculated as follows:

$$BS = 1.3S + A$$

where:

BS is the amount to be ascertained; and

S is:

- (i) for a member employed on a full-time basis immediately before the member's exit date, the member's salary (exclusive of approved allowances) as at the member's exit date as certified by the member's employer and accepted by the Commissioner; or
- (ii) for a member employed on a part-time basis immediately before the member's exit date – the full-time equivalent of the member's salary (exclusive of approved allowances) as at the member's exit date as certified by the member's employer and accepted by the Commissioner; and

A is the amount of the member's approved allowances immediately before the member's exit date as certified by the member's employer and accepted by the Commissioner; or

- (c) for any other employee member – the member's actual salary, or in the case of a part-time employee, the full-time equivalent of the member's salary, as at the member's exit date, as certified by the member's employer and accepted by the Commissioner; or
- (d) for a parliamentary member – the member's basic salary as a Member of the Legislative Assembly as at the member's exit date plus any additional salary to which the member was then entitled for a ministerial or parliamentary office as certified by the Clerk of the Legislative Assembly and accepted by the Commissioner.

employee member means a member who is a permanent employee.

employment means:

- (a) service as a permanent employee under a contract of service or in a statutory or other public office; or
- (b) service as a Member of the Legislative Assembly.

exit date means the date on which a person ceases to be a member of the Scheme.

invalidity retirement means retirement on the ground of invalidity (see section 45F).

invalidity retirement benefit, see section 45Q.

member means a member of the Scheme.

nominal retirement age, for a member, means the age of 65 years, or if retirement is compulsory at a younger age, the age at which retirement becomes compulsory.

NTGDIS benefit, see section 45N.

parliamentary member means a member who is a Member of the Legislative Assembly.

part-time member means a member who is, immediately before the member's exit date, in part-time employment.

part-time ratio, for a part-time member, means the quotient obtained:

- (a) by dividing the member's actual hours of work immediately before the member's exit date by the number of hours of work that would constitute full-time employment; or
- (b) on some other basis (which may involve estimation or supposition) the Commissioner considers fair to the member in the circumstances.

salary includes approved allowances.

Scheme means the NTGDI Scheme.

workers' compensation agreement means an agreement under which:

- (a) an amount is payable instead of periodic payments under workers' compensation legislation; and
- (b) there is no exclusion or limitation of the application of, or the rights or entitlements of a person under, that legislation; and
- (c) the amount is repayable if those rights or entitlements are pursued.

- (2) The Commissioner may determine, in relation to a particular class of members, that allowances of a particular kind are to be taken into account, in a particular way, for calculating the benefit salary of a member of the relevant class.

Examples

- 1 *The Commissioner might determine that allowances of a particular kind are to be taken into account as if they formed part of the salary of members of a particular class.*
- 2 *The Commissioner might determine for members employed in the Police Force (other than a police auxiliary or person employed under an Executive Contract of Employment) that an allowance of a particular kind is to be taken into account for the purposes of the relevant formula in the definition of **benefit salary**.*

45F Invalidation retirement

- (1) A member of the Scheme retires from employment on the ground of invalidity if, and only if:
- (a) the member is involuntarily retired from employment with the Commissioner's approval under section 50; or
 - (b) the member resigns or retires from employment (voluntarily or involuntarily) and the Commissioner approves the payment of an invalidity retirement benefit; or
 - (c) the member's employment terminates or is terminated and the Commissioner approves the payment of an invalidity retirement benefit.
- (2) The Commissioner may only give an approval under subsection (1) if the Commissioner makes an assessment, after considering medical and other relevant evidence, that the member has (or had) become, by the date of resignation, retirement or termination of employment, physically or mentally so incapacitated that the member is (or was) unfit for any available employment (on a full-time or part-time basis) for which the member is reasonably qualified by education, training or experience.
- (3) In considering whether suitable employment is available to a member, the Commissioner will have regard only to employment available from employers whose employees are covered by the Scheme.

Division 2 Establishment and membership of the Northern Territory Government Death and Invalidation Scheme

45G Establishment of the Scheme

The Northern Territory Government Death and Invalidation Scheme is established.

45H Membership of Scheme

- (1) A person is a member of the Scheme if both of the following conditions are satisfied:
 - (a) the person:
 - (i) is a permanent employee employed in a full-time or part-time capacity under the *Public Sector Employment and Management Act 1993* or as a member of the Police Force; or
 - (ii) is employed in the public sector under an Executive Contract of Employment;
 - (b) the person is not an eligible employee (and hence is not a member of the NTGPAS Scheme).

Note for section 45H(1)

This means that a permanent employee's last period of continuous employment must have commenced after 9 August 1999.

- (2) Members of the Legislative Assembly elected for the first time at the general election held on 18 June 2005 or a later general election or by-election are also members of the Scheme.
- (3) A permanent employee who was a member of the NTGPAS Scheme and, under the Rules, ceases to be an eligible employee as a result of electing to take a benefit from that Scheme, becomes a member of the NTGDI Scheme on ceasing to be an eligible employee.

Division 4 Entitlements

45M Entitlement to benefits under the Scheme

A benefit is payable under the Scheme if:

- (a) a member dies leaving a dependant or dependants who survive the member; or
- (b) a member retires from employment on the ground of invalidity.

45N NTGDIS benefit

- (1) The NTGDIS benefit is calculated in accordance with the following formula:

$$B = 17.5\% \times S \times Y \times P$$

where:

B is the amount of the benefit.

S is the member's benefit salary.

Y is a multiplier based on the member's age, as at the member's exit date, in accordance with subsection (2).

P is, for a part-time member, the member's part-time ratio and, for any other member, 1.

- (2) The age-based multiplier is determined as follows:
- (a) if the member is, on the exit date, 60 years of age or above – the multiplier is zero;
 - (b) if the member is, on the exit date, 55 years of age or above but less than 60 years of age – the multiplier is the number of years between the member's age at the exit date and 60 years (expressing a part of a year as a decimal fraction);
 - (c) if the member is, on the exit date, 50 years of age or above but less than 55 years – the multiplier is the number of years between the member's age at the exit date and the member's nominal retirement age less the number of years between the exit date and the date on which the member attained 50 years of age (expressing a part of a year as a decimal fraction);
 - (d) if the member is, on the exit date, less than 50 years of age – the multiplier is the number of years between the member's age on the exit date and the member's nominal retirement age (expressing a part of a year as a decimal fraction).

45P Benefit payable on death

- (1) If a member dies leaving a dependant or dependants, the NTGDIS benefit is payable to the estate of the deceased member.
- (2) However, if a benefit (a **workers' compensation benefit**) is payable in respect of the member's death to a dependant or dependants of the deceased member under workers' compensation legislation or a workers' compensation agreement, the NTGDIS

benefit is to be reduced by the amount of the workers' compensation benefit.

- (3) If a workers' compensation benefit consists of periodic payments, the amount of the benefit is taken to be the notional redemption value (as determined by an approved actuary) of the periodic payments.

45Q Benefit payable on invalidity retirement

- (1) If a member is entitled to a benefit on invalidity retirement, the NTGDIS benefit is payable to the member.
- (2) However, if a benefit (a ***workers' compensation benefit***) is payable to the member under workers' compensation legislation or a workers' compensation agreement, the NTGDIS benefit is to be reduced by the amount of the worker's compensation benefit.
- (3) If a workers' compensation benefit consists of periodic payments, the amount of the benefit is taken to be the notional redemption value (as determined by an approved actuary) of the periodic payments.

45S Source of payment

- (1) The benefits payable under the Scheme to, or in relation to, a member or former member are to be paid out of the Territory's public account (which is appropriated to the necessary extent).
- (2) A public authority by which a member was employed for the whole, or any part, of the period of the member's membership of the Scheme is liable to reimburse the Territory for a fair proportion (to be determined by the Minister) of the amount paid from the public account to, or in relation to, the member or former member.
- (3) A public authority must, if the Minister requires:
 - (a) enter into an arrangement with the Territory for contributing, on a basis the Minister considers fair to the Territory, to the cost of paying benefits under the Scheme to, or in relation to, employees or former employees of the public authority; and
 - (b) make payments to the Territory in accordance with the arrangement.
- (4) The Minister may exempt a public authority from a liability under subsection (2).

Part 5 General matters for NTGPAS Scheme and NTGDI Scheme

Division 1 Information

45T Information to be provided by Commissioner

- (1) A member or former member of either Scheme may ask the Commissioner for information about actual or prospective entitlements under the Scheme and for information relevant to the calculation of those entitlements.

Example for subsection (1)

A member of the NTGPAS Scheme might ask for a statement of the number of annual benefit points to which the member is entitled.

- (2) The Commissioner must, as soon as practicable after receiving a request under subsection (1), supply the information requested.

Division 2 Benefits

45V Discretionary benefits

The Commissioner may, with the written approval of the Minister, approve a payment of a benefit for which no provision is made, or in addition to a benefit for which provision is made, in either Scheme.

45W Assignment, etc. of benefit

- (1) A purported assignment of, or purported charge over, a benefit payable under either Scheme is void.
- (2) Where, but for this subsection, a benefit would pass by operation of law to a person other than a person to whom the benefit is payable under the Scheme, the benefit does not pass.

45X Payment without grant of probate etc.

- (1) If a benefit is payable under either Scheme on death, and the benefit would, but for this section, be payable to the estate of the deceased, the Commissioner may, without production of probate of the will or letters of administration of the estate of the deceased, pay the benefit for one or more of the following purposes:
 - (a) towards the expenses of the deceased's funeral;
 - (b) to a dependant or dependants of the deceased;

- (c) if the deceased left no dependant, but the Commissioner is satisfied that the deceased intended to benefit some other person – to the other person.
- (2) The amount the Commissioner may pay under subsection (1) is subject to a limit of \$30 000 or, if a higher limit is fixed by regulation, the higher limit.
- (2A) The Commissioner may make a payment in excess of the limit applying under subsection (2) if the payment is made to a dependant who, in the Commissioner's opinion, requires the payment to alleviate financial hardship.
- (3) The receipt in writing of a person to whom a payment is made under subsection (1) discharges the Commissioner from further liability for the portion of the benefit to which the payment relates.
- (4) If a benefit is payable to the estate of a deceased person, the Commissioner may instead of paying the benefit to the legal personal representative of the deceased, pay the benefit to the Public Trustee.
- (5) The Public Trustee's receipt for the payment discharges the Commissioner from further liability in respect of the benefit or the portion of the benefit that the payment represents.

45Y Payment where beneficiary incapable

- (1) If a person to whom a benefit under either Scheme is payable is, in the opinion of the Commissioner, incapable of administering the person's own affairs because of illness or imprisonment or for any other reason, the Commissioner may pay the benefit to the Public Trustee.
- (2) A payment made under subsection (1) is taken to have been made to the person entitled to the benefit.

45Z Unclaimed benefits

If a benefit is not claimed within 6 years after it became payable, the Commissioner may pay the benefit to the credit of the Territory's public account.

Division 3 Actuarial review

45ZA Actuarial review

- (1) The Commissioner must have an actuarial review of both Schemes carried out as at 30 June 2010 or an earlier date directed by the Minister.

- (2) A further actuarial review is to be carried out at an interval of 3 years from the previous one or, if the Minister directs an earlier review, as directed by the Minister.
- (3) The Commissioner may engage an actuary to carry out a review.
- (4) The cost of engaging an actuary for the purposes of this section and the costs of the review are to be met by the Territory.

Division 4 Claims for benefits

46 Claim for benefit under Scheme

- (1) A person entitled, or claiming to be entitled, to a benefit under either Scheme may apply to the Commissioner, in the approved manner and form, for the payment of that benefit.
- (2) A person who could be affected by a decision or an action that the Commissioner is authorised or required to make or take under this Act may apply to the Commissioner, in the approved form, for the Commissioner to make the relevant decision or to take the relevant action.
- (2A) If the applicant claims to be entitled to a benefit because of having retired from employment on the ground of invalidity, the application must be made within 2 years after the applicant ceased employment.
- (3) The Commissioner must make a decision on an application as soon as practicable after receiving it.
- (3A) On making a decision, the Commissioner must give the applicant a written notice setting out:
 - (a) the Commissioner's decision; and
 - (b) either:
 - (i) the Commissioner's reasons for the decision; or
 - (ii) that the applicant has a right to request written reasons under subsection (4); and
 - (c) that the applicant has a right under Part 5A to have the decision reviewed.
- (4) An applicant may, in writing, require the Commissioner to give his or her reasons in writing for his or her decision on the application and the Commissioner shall give his or her reasons accordingly.

Part 5A Review of decisions

49A Definitions

In this Part:

reviewable decision, see section 49B.

Tribunal means the Civil and Administrative Tribunal.

49B Reviewable decisions

- (1) A ***reviewable decision*** is any decision made by the Commissioner, in relation to a particular person, about the operation or management of:
 - (a) the NTGPAS Scheme; or
 - (b) the NTGDI Scheme; or
 - (c) the NTSS Scheme; or
 - (d) the LAMS Scheme; or
 - (e) any superannuation scheme in relation to which the Commissioner exercises powers or performs functions.
- (2) For subsection (1), a decision is taken to be made if the Commissioner:
 - (a) makes, or fails to make, a decision; or
 - (b) engages in any conduct, or fails to engage in any conduct, in relation to making a decision; or
 - (c) makes no decision within any period required under this Act for making the decision; or
 - (d) makes no decision within a reasonable period after any obligation to make the decision arose.
- (3) To avoid doubt, a decision in relation to the operation or management of a scheme or fund as a whole is not a reviewable decision.

49C Application for review by Commissioner

- (1) A person, or the executor or administrator of a person's estate, who is aggrieved by a reviewable decision made in relation to the person, may apply to the Commissioner for review of the decision.

- (2) The application must:
- (a) be made:
 - (i) in the approved form or, if no form is approved, in writing; and
 - (ii) within the time prescribed by regulation; and
 - (b) state the grounds on which it is made and the facts relied on to establish the grounds; and
 - (c) be accompanied by the fee prescribed by regulation (if any).

49D Commissioner to review decision

- (1) On receipt of an application, the Commissioner must review the reviewable decision.
- (2) However, the Commissioner may decline to review the decision if satisfied the application is frivolous or vexatious.

49E Conduct and determination of review

- (1) In reviewing a reviewable decision, the Commissioner:
 - (a) may decide the procedures of the review; and
 - (b) must comply with the rules of natural justice.
- (2) To decide the review, the Commissioner must:
 - (a) affirm the reviewable decision; or
 - (b) vary the reviewable decision; or
 - (c) set aside the reviewable decision and substitute a new decision.
- (3) The Commissioner must decide the review:
 - (a) if the reviewable decision relates to a death benefit – within 30 days after the application is made; or
 - (b) otherwise – within 90 days after the application is made.

49F Notice of decision on review

On deciding the review, the Commissioner must give the applicant a written notice setting out:

- (a) the Commissioner's decision on the review; and
- (b) the reasons for the decision; and
- (c) that the person has a right to have the decision reviewed by the Tribunal.

49G Application for review by Tribunal

- (1) An applicant under section 49C who is aggrieved by the Commissioner's decision under section 49E, may apply to the Tribunal for review of that decision.
- (2) The application must be made:
 - (a) within the time prescribed by regulation; and
 - (b) in accordance with the *Northern Territory Civil and Administrative Tribunal Act 2014*.

49H Tribunal has jurisdiction

The Tribunal has jurisdiction to deal with matters under this Part.

Part 5B General matters**49J Information to be provided to Commissioner**

- (1) The Commissioner may, for the purposes of the operation or management of an NTG Scheme, require a person to do either or both of the following:
 - (a) answer questions or give information to the Commissioner;
 - (b) produce documents or other information to the Commissioner.
- (2) A person commits an offence if the person:
 - (a) is given a requirement under subsection (1); and
 - (b) engages in conduct that results in a failure to comply with the requirement.

Maximum penalty: 100 penalty units.

- (3) It is a defence to a prosecution for an offence against subsection (2) if the person establishes a reasonable excuse.

49K Misleading information

- (1) A person commits an offence if the person:

- (a) gives information to the Commissioner; and
- (b) knows the information is misleading; and
- (c) knows the Commissioner is acting in an official capacity.

Maximum penalty: 100 penalty units.

- (2) A person commits an offence if the person:

- (a) gives a document to the Commissioner; and
- (b) knows the document contains misleading information; and
- (c) knows the Commissioner is acting in an official capacity.

Maximum penalty: 100 penalty units.

- (3) Subsection (2) does not apply if the person, when giving the document:

- (a) draws the misleading aspect of the document to the recipient's attention; and
- (b) to the extent to which the person can reasonably do so – gives the recipient the information necessary to remedy the misleading aspect of the document.

- (4) In this section:

acting in an official capacity means exercising powers or performing functions under this Act or otherwise connected with the administration of this Act or the operation or management of an NTG Scheme.

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

49L Offence to disclose confidential information

- (1) A person commits an offence if:
- (a) the person obtains information in the course of performing a function connected with the administration of an NTG Scheme or this Act or exercising a power under this Act; and
 - (b) the information is confidential and the person is reckless in relation to that circumstance; and
 - (c) the person intentionally engages in conduct; and
 - (d) the conduct results in the disclosure of the information and the disclosure is not:
 - (i) for a purpose connected with the administration of this Act, including a legal proceeding arising out of the operation of this Act; or
 - (ii) to a person who is otherwise entitled to the information; and
 - (e) the person is reckless in relation to the result and circumstance mentioned in paragraph (d).

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) If the information mentioned in subsection (1) relates to a person, it is a defence to a prosecution for an offence against that subsection if the person has consented to the disclosure of the information.

Note for section 49L

In addition to the circumstances mentioned in this section, a person who discloses information mentioned in this section will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

50 Approval for retirement for invalidity

Notwithstanding any other law in force in the Territory or the terms or conditions of any contract, a member of either Scheme shall not be retired from his or her employment on the grounds of invalidity unless his or her employer has first obtained from the Commissioner the Commissioner's approval in writing to the retirement.

50A Commissioner may charge fees

The Commissioner may charge fees for services provided at the request of a person.

50B Power to recover money on behalf of the Territory

If the Territory makes a payment to any person under either Scheme to which the person was not entitled, or in excess of the person's entitlement, the Commissioner may, on behalf of the Territory, recover the amount of the payment or the amount of the excess (as the case requires) as a debt.

51 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act or the Rules to be prescribed;
or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act or the Rules.

**Part 6 Transitional matters for Superannuation
Legislation Amendment Act 2010**

Division 1 NTGDI Scheme

**52 Adjustment of NTGDI Scheme benefits for death or retirement
on or after 1 April 2010**

- (1) This section applies if:
 - (a) a benefit under Part 4 was paid to, or in respect of, a member before the commencement of Part 2, Division 2 of the 2010 Act; and
 - (b) the benefit trigger occurred on or after 1 April 2010; and
 - (c) the value for A in the formula in section 45N(1) used to calculate the amount of the benefit was less than 1.
- (2) An additional benefit is payable under the NTGDI Scheme of an amount equal to the difference between:
 - (a) the amount of the benefit paid as mentioned in subsection (1);
and

- (b) the amount of the benefit that would have been payable under Part 4 if Part 2, Division 2 of the 2010 Act had commenced on 1 April 2010.
- (3) A benefit under subsection (2) must be paid:
 - (a) to the member; or
 - (b) if the member has died – to the member's estate.
- (4) To avoid doubt, a benefit paid under Part 4 is not subject to any adjustment as a result of the enactment of Part 2, Division 2 of the 2010 Act if the benefit trigger occurred before 1 April 2010.
- (5) In this section:

2010 Act means the *Superannuation Legislation Amendment Act 2010*.

benefit trigger, for a benefit under Part 4, means the death or retirement as mentioned in section 45M for which the benefit is payable.

Division 2 Superannuation Trustee Board

53 Object of this Division

The object of this Division is to give effect to the change in the trusteeship of the Fund from the old board to the Trustee Board effected by the amendments to the Act made by Part 2, Division 4 of the *Superannuation Legislation Amendment Act 2010*.

54 Definitions

In this Division:

asset means property of any kind, whether tangible or intangible, real or personal, including any right, interest or claim of any kind, whether liquidated or unliquidated, actual, contingent or prospective.

liability means any liability, duty or obligation, whether liquidated or unliquidated, actual, contingent or prospective, and whether owed alone or jointly with another person or jointly and severally with another person.

old board means the Superannuation Investment Board under section 11 as in force before the restructure time and includes the persons who were members of that board.

restructure time means the commencement of Part 2, Division 4 of the *Superannuation Legislation Amendment Act 2010*.

right means any right, power, privilege or immunity, whether actual, contingent or prospective.

transferred asset or liability means an asset transferred by operation of section 56(a) or liability transferred by operation of section 56(b).

55 Members of old board to be first members of Trustee Board

- (1) The person who was the Chair of the old board immediately before the restructure time:
 - (a) is the Chair of the Trustee Board; and
 - (b) holds that office for the remainder of the term of the person's appointment to the old board.
- (2) Each other person who was a member of the old board immediately before the restructure time:
 - (a) is a member of the Trustee Board; and
 - (b) holds that office for the remainder of the person's term of appointment to the old board.

56 Transfer of Fund and liabilities etc.

At the restructure time:

- (a) the Fund vests in the Trustee Board; and
- (b) each liability of the old board becomes a liability of the Trustee Board; and
- (c) in any proceedings to which the old board is party, the Trustee Board is substituted for the old board as a party to the proceedings; and
- (d) any agreement or document relating to a transferred asset or liability is taken to be amended so that any reference in it to the old board includes, if the context permits, a reference to the Trustee Board.

57 Effect on rights and remedies

- (1) After the restructure time, any proceedings that could have been commenced by or against the old board in relation to a transferred asset or liability:
 - (a) may be commenced by or against the Trustee Board; and
 - (b) cannot be commenced by or against the old board.
- (2) After the restructure time, any remedy that would have been available to or against the old board in relation to a transferred asset or liability:
 - (a) is available to or against the Trustee Board; and
 - (b) is not available to or against the old board.

58 Completion of change of trusteeship

- (1) The old board, Trustee Board and Commissioner must take all practicable steps to:
 - (a) ensure that the effect sought to be achieved by sections 56 and 57 is achieved; and
 - (b) otherwise give effect to the object of this Division.
- (2) Without limiting subsection (1):
 - (a) the Commissioner must give to each registrar all the information the registrar needs in order to record and register the documents necessary to show the effect of section 56; and
 - (b) the old board, Trustee Board and Commissioner must make arrangements for the delivery to the Trustee Board of all the old board's documents and other records relating to the Fund or Scheme.
- (3) In this section:

registrar means a person authorised or required by a law of any jurisdiction to record and give effect to the registration of documents relating to transactions affecting a transferred asset or liability.

59 Exemption from taxes and charges

- (1) No tax or charge is chargeable in relation to any thing (a **relevant act**):
 - (a) that occurs by operation of this Division; or

- (b) done:
 - (i) under this Division; or
 - (ii) to give effect to this Division; or
 - (iii) for a purpose connected with, or arising out of, giving effect to the object of this Division.

- (2) Subsection (1) applies in relation to a foreign tax or charge so far as the legislative power of the Legislative Assembly permits.
- (3) Any foreign tax or charge payable in relation to a relevant act is to be paid from the Central Holding Authority, which is appropriated accordingly.
- (4) In this section:

foreign tax or charge means a tax or charge under a law of a jurisdiction other than the Territory.

tax or charge means a tax, duty, levy, fee or charge of any kind, including a fee or charge for a service.

60 Continuation of ongoing matters

- (1) Anything done or omitted to be done by, to, or in relation to, the old board before the restructure time that is of ongoing effect is to be taken, after the restructure time, to have been done or omitted to be done by, to, or in relation to, the Trustee Board.
- (2) Without limiting subsection (1), any direction given by the old board to the Commissioner and in force immediately before the restructure time continues in force as a direction given by the Trustee Board.

Part 7 Transitional matters for Superannuation Amendment Act 2012

61 Definitions

In this Part:

3-member Board means the Trustee Board as established under old section 11.

9-member Board means the Trustee Board as continued under section 8A.

commencement means the commencement of section 4 of the *Superannuation Amendment Act 2012*.

old section, means the section as in force immediately before commencement.

police scheme trust deed, means the trust deed dated 15 June 1984 between the Territory and Otto Kenneth Alder, Arthur Alexander Grant and Michael John Palmer establishing the Northern Territory Police Supplementary Benefit Scheme.

62 Membership of Trustee Board

- (1) The person who was the Chair of the 3-member Board under old section 11A(1)(a) immediately before commencement:
 - (a) becomes, on commencement, the chairperson of the 9-member Board under section 8C(1)(b)(i); and
 - (b) holds that office for the remainder of his or her term of appointment to the 3-member Board.
- (2) The person who was the Acting Chair under old section 16(2) immediately before commencement:
 - (a) becomes, on commencement, the deputy chairperson of the 9-member Board under section 8C(1)(b)(ii); and
 - (b) holds that office until the expiry of 5 years from the date of his or her appointment under old section 16(2).
- (3) The person who was a member of the 3-member Board under old section 11A(1)(b) immediately before commencement having been nominated by Unions NT under old section 11A(2)(b):
 - (a) becomes, on commencement, a member of the 9-member Board under section 8C(1)(b)(iii); and
 - (b) is taken to have been nominated by Unions NT under section 8C(3)(b)(ii); and
 - (c) holds that office for the remainder of his or her term of appointment to the 3-member Board.
- (4) The person who was, immediately before commencement, the alternate member under old section 15(1) for the member mentioned in subsection (3):
 - (a) becomes, on commencement, a member of the 9-member Board under section 8C(1)(b)(iii); and

- (b) is taken to have been nominated by Unions NT under section 8C(3)(b)(ii); and
 - (c) holds that office until the expiry of 5 years from the date on which he or she was appointed under old section 15(1).
- (5) The person who was a member of the 3-member Board under old section 11A(1)(b) immediately before commencement and who was not the Chair or the member mentioned in subsection (3):
 - (a) becomes, on commencement, a member of the 9-member Board under section 8C(1)(b)(iii); and
 - (b) is taken to have been nominated by the Under Treasurer under section 8C(3)(a); and
 - (c) holds that office for the remainder of his or her term of appointment to the 3-member Board.
- (6) The person who was, immediately before commencement, the alternate member under old section 15(1) for the member mentioned in subsection (5):
 - (a) becomes, on commencement, a member of the 9-member Board under section 8C(1)(b)(iii); and
 - (b) is taken to have been nominated by the Under Treasurer under section 8C(3)(a); and
 - (c) holds that office until the expiry of 5 years from the date on which he or she was appointed under old section 15(1).
- (7) The person who was, immediately before commencement, the trustee nominated under clause 4(2) of the police scheme trust deed by the Police Association to represent the members:
 - (a) becomes, on commencement, a member of the 9-member Board under section 8C(1)(b)(iii); and
 - (b) is taken to have been nominated by the Police Association under section 8C(3)(d)(ii); and
 - (c) holds that office for the remainder of his or her term of appointment as trustee under clause 4 of the police scheme trust deed.

- (8) The person who was, immediately before the commencement, the trustee nominated under clause 4(2) of the police scheme trust deed by the Commissioner of Police to represent the police:
- (a) becomes, on commencement, a member of the 9-member Board under section 8C(1)(b)(iii); and
 - (b) is taken to have been nominated by the Commissioner of Police under section 8C(3)(c); and
 - (c) holds that office for 5 years from the commencement.
- (9) The reference in section 8F(1) to a term of office of 5 years does not apply in relation to the terms of office mentioned in this section.

63 Continuation of all matters related to Trustee Board

If a thing is in effect in relation to the 3-member Board immediately before commencement, on commencement it becomes a thing with the same effect in relation to the 9-member Board.

Part 8 Transitional matters for Superannuation Legislation Amendment and Repeal Act 2014

Division 1 General

64 Application of offences

- (1) The offence provisions apply only in relation to offences committed after the commencement of section 7 of the *Superannuation Legislation Amendment and Repeal Act 2014* (the **commencement**).
- (2) The offence provisions, as in force before the commencement, continue to apply in relation to offences committed before the commencement.
- (3) For this section, if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.
- (4) In this section:

offence provisions means the provisions of this Act that relate to offences (including in relation to criminal responsibility, defences and penalties).

Division 2 Allocated pensions

65 Definitions

In this Division:

allocated pension means:

- (a) a pension that complies with the requirements for an allocated pension under relevant Commonwealth laws regulating the payment of superannuation benefits; or
- (b) any other form of periodic payment of superannuation benefits (however described) recognised as permissible under relevant Commonwealth laws regulating the payment of superannuation benefits.

commencement means the commencement of section 15 of the *Superannuation Legislation Amendment and Repeal Act 2014*.

pensioner, see section 66(1)(a).

remaining benefit, in relation to an allocated pension, means so much of the benefit from which the pension is being paid as remains unpaid.

66 Continued payment of existing allocated pensions

- (1) This section applies if:
 - (a) before the commencement, a benefit was being paid to a person (a ***pensioner***) in the form of an allocated pension under section 31; and
 - (b) as at the commencement, part of the benefit remained unpaid.
- (2) Until the allocated pension is terminated under section 67, the Commissioner may continue paying the benefit in the form of an allocated pension as if section 31, as in force immediately before the commencement, were still in force.

67 Termination of allocated pensions

- (1) The Commissioner may terminate the allocated pension by transferring the remaining benefit to another superannuation fund under section 68.

- (2) The Commissioner must not do so unless the Commissioner has given the pensioner:
 - (a) written notice of the Commissioner's intention to do so; and
 - (b) a reasonable opportunity to transfer the remaining benefit to another superannuation fund of the pensioner's choice.

68 Transfer to successor fund

- (1) A superannuation fund is a **successor fund** if the Trustee Board and Commissioner:
 - (a) are satisfied that the fund confers on a member of the fund rights equivalent to those that a pensioner has under the Scheme in respect of an allocated pension; and
 - (b) have agreed with the trustee of the successor fund that those equivalent rights will be conferred on a pensioner if his or her benefit is transferred to the successor fund.
- (2) The Commissioner may transfer the pensioner's remaining benefit to a successor fund.
- (3) The Commissioner may do so without the consent of the pensioner.
- (4) However, if the successor fund is a registrable superannuation entity that is a regulated superannuation fund or an approved deposit fund, the Commissioner must not transfer the benefit unless the successor fund is registered under Part 2B of the SIS Act.
- (5) In this section:

approved deposit fund, see section 10(1) of the SIS Act.

registrable superannuation entity, see section 10(1) of the SIS Act.

regulated superannuation fund, see section 10(1) of the SIS Act.

69 Acquisition on just terms

- (1) If the operation of the allocated pension provisions would, apart from this section, result in an acquisition of property from a person otherwise than on just terms:
 - (a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and

- (b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.
- (2) In this section:
- allocated pension provisions*** means:
- (a) section 15 of the *Superannuation Legislation Amendment and Repeal Act 2014*; and
- (b) this Division.

Division 3 Claim times and review of decisions

70 Definition

In this Division:

commencement means the commencement of section 64 of the *Superannuation Legislation Amendment and Repeal Act 2014*.

71 Time limit for claiming permanent invalidity benefit

For a person claiming to be entitled to a benefit because of having retired from employment before the commencement on the ground of invalidity, the reference in section 46(2A) to 2 years after the date of cessation of employment is taken to be a reference to 2 years after the commencement.

72 Part 5A – decisions about NTGPAS and NTGDI Schemes made before commencement

- (1) This section applies if, before the commencement, the Commissioner made a decision about the operation or management of the NTGPAS Scheme or NTGDI Scheme in relation to a person.
- (2) If, as at the commencement, no application for reconsideration had been made under section 46(5), the decision is a reviewable decision for Part 5A.
- (3) If an application was made under section 46(5) before the commencement but, as at the commencement, the application had not been determined, the application is taken to be an application under section 49C and is to be dealt with under Part 5A.
- (4) If an application for review was made under section 47(1) before the commencement but, as at the commencement, the application

had not been determined, the application is to be dealt with and determined (including as to the exercise of any right of appeal) in accordance with this Act as in force immediately before the commencement.

73 Part 5A – decisions about LAMS Scheme made before commencement

Part 5A does not apply in relation to a decision of the Trustee Board about the operation or management of the LAMS Scheme that was made before the commencement.

74 Part 5A – decisions about NTSS Scheme made before commencement

- (1) This section applies if, before the commencement, the Commissioner made a decision under the Instrument about the operation or management of the NTSS Scheme in relation to a person.
- (2) If, as at the commencement, no application for review had been made under clause 14 of the Instrument:
 - (a) the decision is a reviewable decision for Part 5A; but
 - (b) section 49G does not apply in relation to the decision.
- (3) If an application was made under clause 14 of the Instrument before the commencement but, as at the commencement, the application had not been determined, the application is to be dealt with and determined in accordance with the Instrument as in force immediately before the commencement.
- (4) In this section:

Instrument means the instrument made by the Treasurer and dated 4 January 1989 establishing the NTSS Scheme.

75 Part 5A – decisions about PSB Scheme made before commencement

- (1) This section applies if, before the commencement, the Trustee made a decision under the Trust Deed about the operation or management of the PSB Scheme in relation to a person.
- (2) If, as at the commencement, no application for review had been made under clause 27 of the Trust Deed:
 - (a) the decision is a reviewable decision for Part 5A; but

- (b) section 49G does not apply in relation to the decision.
- (3) If an application was made under clause 27 of the Trust Deed before the commencement but, as at the commencement, the application had not been determined, the application is to be dealt with and determined in accordance with the Trust Deed as in force immediately before the commencement.
- (4) In this section:

PSB Scheme means the Northern Territory Police Supplementary Benefit Scheme.

Trust Deed, means the trust deed dated 15 June 1984 between the Territory and Otto Kenneth Alder, Arthur Alexander Grant and Michael John Palmer establishing the PSB Scheme, as amended.

Trustee means the trustee under the Trust Deed.

Part 9 Transitional matters for Superannuation Legislation Amendment Act 2015

77 Continuation of existing accounts for adherents

- (1) Sections 41(5), 45A and 45D, as in force before the commencement, continue to apply in relation to an existing account as if Part 2, Division 3 of the *Superannuation Legislation Amendment Act 2015* had not commenced.
- (2) In this section:

commencement means the commencement of Part 2, Division 3 of the *Superannuation Legislation Amendment Act 2015*.

existing account means an accumulation account in the name of an adherent that was in existence immediately before the commencement.

Part 10 Transitional matters for Superannuation Legislation Amendment Act 2019

78 Definitions

In this Part:

commencement means the commencement of Part 5 of the *Superannuation Legislation Amendment Act 2019*.

Trustee Board, means the Trustee Board as constituted under section 8A of this Act immediately before the commencement.

79 Transfer of functions

On the commencement:

- (a) the Commissioner is substituted for the Trustee Board in any proceedings to which the Trustee Board is a party; and
- (b) the Commissioner is substituted for the Trustee Board in any agreement or document; and
- (c) any proceedings that could have been commenced by or against the Trustee Board may only be commenced by or against the Commissioner; and
- (d) any remedy that would have been available to or against the Trustee Board is available only to or against the Commissioner.

80 Exemption from taxes and charges

- (1) No tax or charge is chargeable in relation to any act or thing that:
 - (a) occurs by operation of the *Superannuation Legislation Amendment Act 2019*; or
 - (b) is done under or to give effect to that Act; or
 - (c) is done for a purpose connected with, or arising out of, giving effect to that Act.
- (2) Subsection (1) applies in relation to a foreign tax or charge so far as the legislative power of the Legislative Assembly permits.
- (3) Any foreign tax or charge payable in relation to an act or thing mentioned in subsection (1) is to be paid from the Central Holding Authority, which is appropriated accordingly.
- (4) In this section:

foreign tax or charge means a tax or charge under a law of a jurisdiction other than the Territory.

tax or charge means a tax, duty, levy, fee or charge of any kind, including a fee or charge for a service.

81 Continuation of ongoing matters

- (1) Anything done or omitted to be done by, to or in relation to the Trustee Board before the commencement that has effect after that date is taken to have been done or omitted to be done by, to or in relation to the Commissioner.
- (2) To avoid doubt, section 8V continues to apply to members of the Trustee Board after the commencement in relation to anything done or omitted to be done by, to or in relation to the Trustee Board before the commencement.
- (3) To avoid doubt, the repeal of section 36 by the *Superannuation Legislation Amendment Act 2019* does not affect the validity of any agreement made under that section.

Schedule

Note: The Rules set out in the Schedule to Act No. 38 of 1986 have been amended. In accordance with section 37(1) of the *Superannuation Act 1986*, the Rules as amended are contained in a consolidated document entitled "*Northern Territory Government and Public Authorities' Superannuation Scheme Rules 1986*".

ENDNOTES
1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Superannuation Act 1986 (Act No. 38, 1986)***

Assent date	19 September 1986
Commenced	1 October 1986 (<i>Gaz S70</i> , 1 October 1986, p 1)

Superannuation Amendment Act 1987 (Act No. 56, 1987)

Assent date	4 December 1987
Commenced	s 14: 1 October 1986; rem: 1 January 1988 (<i>Gaz S80</i> , 17 December 1987)

Statute Law Revision Act 1991 (Act No. 31, 1991)

Assent date	25 June 1991
Commenced	25 June 1991

De Facto Relationships (Miscellaneous Amendments) Act 1991 (Act No. 82, 1991)

Assent date	24 December 1991
Commenced	1 January 1992 (s 2)

Superannuation Amendment Act 1992 (Act No. 26, 1992)

Assent date	2 June 1992
Commenced	30 June 1992 (s 2)

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date	30 June 1993
Commenced	1 July 1993 (s 2, s 2 <i>Public Sector Employment and Management Act 1993</i> (Act No. 11, 1993) and <i>Gaz S53</i> , 29 June 1993)

Financial Management (Consequential Amendments) Act 1995 (Act No. 5, 1995)

Assent date	21 March 1995
Commenced	1 April 1995 (s 2, s 2 <i>Financial Management 1995</i> (Act No. 4, 1995) and <i>Gaz S13</i> , 31 March 1995)

Statute Law Revision Act 1995 (Act No. 14, 1995)

Assent date 23 June 1995
Commenced 23 June 1995

Trustee (Consequential Amendments) Act 1996 (Act No. 8, 1996)

Assent date 20 March 1996
Commenced 20 March 1996 (s 2, s 2 *Trustee Amendment Act (No. 2) 1995* (Act No. 60, 1995) and *Gaz G7*, 14 February 1996, p 2)

Financial Institutions (Miscellaneous Amendments) Act 1997 (Act No. 23, 1997)

Assent date 2 June 1997
Commenced 2 June 1997

Territory Insurance Office (Miscellaneous Amendments) Act 1998 (Act No. 37, 1998)

Assent date 27 May 1998
Commenced 27 May 1998

Superannuation Amendment Act 1998 (Act No. 69, 1998)

Assent date 23 September 1998
Commenced 20 October 1998 (*Gaz S41*, 20 October 1998)

Statute Law Revision (Financial Provisions) Act 2002 (Act No. 38, 2002)

Assent date 13 September 2002
Commenced 30 October 2002 (*Gaz G43*, 30 October 2002, p 3)

Superannuation Amendment Act 2003 (Act No. 7, 2003)

Assent date 18 March 2003
Commenced 28 May 2003 (*Gaz G21* 28 May 2003, p 3)

Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 (Act No. 1, 2004)

Assent date 7 January 2004
Commenced 17 March 2004 (*Gaz G11*, 17 March 2004, p 8)

Superannuation Amendment Act 2004 (Act No. 72, 2004)

Assent date 21 December 2004
Commenced 21 December 2004

Statute Law Revision Act 2007 (Act No. 4, 2007)

Assent date 8 March 2007
Commenced 8 March 2007

Superannuation Law Reform Act 2007 (Act No. 36, 2007)

Assent date 12 December 2007
Commenced 23 January 2008 (*Gaz G3*, 23 January 2008, p 2)

Penalties Amendment (Justice and Treasury Legislation) Act 2010 (Act No. 38, 2010)

Assent date 18 November 2010
Commenced 1 February 2011 (*Gaz S6*, 1 February 2011)

Superannuation Legislation Amendment Act 2010 (Act No. 42, 2010)

Assent date 13 December 2010
Commenced pt 1, pt 2, divs 1 to 3 and pt 4: 1 January 2011 (*Gaz S72*, 23 December 2010); rem: 15 March 2011 (*Gaz S13*, 14 March 2011)

Superannuation Amendment Act 2012 (Act No. 15, 2012)

Assent date 27 April 2012
Commenced 27 April 2012

Superannuation Legislation Amendment and Repeal Act 2014 (Act No. 39, 2014)

Assent date 13 November 2014
Commenced pts 1 and 2: 13 November 2014 (s 2); pts 3 and 5: 1 July 2015 (Gaz G21, 27 May 2015, p 2); pt 4: nc (Act rep by No. 39, 2019 before comm)

Superannuation Legislation Amendment Act 2015 (Act No. 32, 2015)

Assent date 8 December 2015
Commenced pt 2, div 3 and pt 3: 15 January 2016 (Gaz S2, 14 January 2016); rem: 8 December 2015 (s 2)

Statute Law Revision Act 2017 (Act No. 4, 2017)

Assent date 10 March 2017
Commenced 12 April 2017 (Gaz G15, 12 April 2017, p 3)

Interpretation Legislation Amendment Act 2018 (Act No. 22, 2018)

Assent date 8 November 2018
Commenced pt 2 and ss 19, 20 and 25 to 27: 18 February 2019 (Gaz S11, 18 February 2019; rem: 11 December 2018 (Gaz S101, 11 December 2018))

Superannuation Legislation Amendment Act 2019 (Act No. 3, 2019)

Assent date 27 February 2019
Commenced pts 1 and 2: 28 February 2019 (s 2); pt 3: 12 April 2019 (Gaz S20, 10 April 2019); pt 4: 8 May 2019 (Gaz S30, 7 May 2019); rem: 26 June 2019 (Gaz G26, 26 June 2019, p 6)

Interpretation Amendment Act 2021 (Act No. 28, 2021)

Assent date 15 December 2021
Commenced 1 January 2022 (s 2)

Statute Law Revision Act 2023 (Act No. 4, 2023)

Assent date 2 March 2023
Commenced 3 March 2023 (s 2)

3 SAVINGS AND TRANSITIONAL PROVISIONS

s 79 *Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003* (Act No. 1, 2004)
ss 3 and 4 *Superannuation Amendment Act 2004* (Act No. 72, 2004)

4 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 3, 7, 8B, 37, 42, 45H and 49G and Sch.

5 LIST OF AMENDMENTS

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s 3	amd No. 56, 1987, s 4; No. 31, 1991, s 14; No. 82, 1991, s 11; No. 28, 1993, s 3; No. 69, 1998, s 4; No. 7, 2003, s 4; No. 1, 2004, s 62; No. 72, 2004, s 2; No. 36, 2007, s 6; No. 42, 2010, ss 9 and 12; No. 15, 2012, s 3; No. 39, 2014, ss 5 and 63; No. 22, 2018, s 41; No. 3, 2019, ss 15, 21 and 57; No. 4, 2023, s 23
s 3AA	ins No. 39, 2014, s 6
s 3A	ins No. 26, 1992, s 3 sub No. 69, 1998, s 5; No. 36, 2007, s 7
s 3B	ins No. 39, 2014, s 7
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s 6	amd No. 69, 1998, s 10; No. 42, 2010, s 13 sub No. 3, 2019, s 22
s 7	amd No. 69, 1998, s 10; No. 42, 2010, s 14 sub No. 3, 2019, s 16
s 8	amd No. 56, 1987, s 5; No. 69, 1998, s 10; No. 38, 2010, s 4 rep No. 39, 2014, s 8
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s 8S	ins No. 15, 2012, s 4 amd No. 3, 2019, s 25 rep No. 3, 2019, s 58
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s 8TA	ins No. 39, 2014, s 10 rep No. 3, 2019, s 58
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s 8TB	ins No. 39, 2014, s 11 amd No. 3, 2019, ss 18 and 26 rep No. 3, 2019, s 58
s 8U	ins No. 15, 2012, s 4 rep No. 3, 2019, s 58
s 8V	ins No. 15, 2012, s 4 amd No. 39, 2014, s 12 rep No. 3, 2019, s 58
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s 10	amd No. 36, 2007, s 10 rep No. 39, 2014, s 64
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div 3 hdg	amd No. 42, 2010, s 20 rep No. 15, 2012, s 5
s 11	amd No. 69, 1998, s 10; No. 36, 2007, s 11 sub No. 42, 2010, s 15 rep No. 15, 2012, s 5
s 11A	ins No. 42, 2010, s 15 rep No. 15, 2012, s 5
s 12	amd No. 8, 1996, s 3; No. 69, 1998, s 10; No. 36, 2007, s 12; No. 42, 2010, s 16 rep No. 15, 2012, s 5
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s 13	sub No. 36, 2007, s 13 rep No. 15, 2012, s 7
s 14	amd No. 56, 1987, s 7; No. 69, 1998, s 10 sub No. 36, 2007, s 13 amd No. 15, 2012, s 9 rep No. 39, 2014, s 64
s 15	amd No. 56, 1987, s 8; No. 69, 1998, s 10 sub No. 36, 2007, s 13 amd No. 15, 2012, s 9 rep No. 39, 2014, s 64
ss 16 – 17	amd No. 69, 1998, s 10 sub No. 36, 2007, s 13 amd No. 15, 2012, s 9 rep No. 39, 2014, s 64
s 18	amd No. 15, 2012, s 9 rep No. 39, 2014, s 64
s 19	amd No. 69, 1998, s 10; No. 15, 2012, s 9 rep No. 39, 2014, s 64
s 20	amd No. 69, 1998, s 10; No. 42, 2010, s 20; No. 15, 2012, s 9 rep No. 39, 2014, s 64
s 21	amd No. 69, 1998, s 10; No. 36, 2007, s 14; No. 15, 2012, s 9 rep No. 39, 2014, s 64

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- s 22 amd No. 69, 1998, s 10
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- s 23 amd No. 15, 2012, s 9
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- s 24 amd No. 69, 1998, s 10; No. 42, 2010, s 17; No. 15, 2012, s 9
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- s 25 amd No. 15, 2012, s 9
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- pt 3 hdg amd No. 36, 2007, s 16
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- s 27 amd No. 69, 1998, s 6
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- s 29 sub No. 56, 1987, s 9
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- s 37 amd No. 56, 1987, s 12; No. 69, 1998, s 10; No. 42, 2010, s 10; No. 39,
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- s 39 amd No. 56, 1987, s 13; No. 14, 1995, s 12; No. 23, 1997, s 6; No. 37, 1998,
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- s 41A ins No. 36, 2007, s 23
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- s 42 amd No. 5, 1995, s 14; No. 69, 1998, s 10; No. 36, 2007, s 24; No. 42, 2010,
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- s 43 amd No. 56, 1987, s 14
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- s 44 rep No. 3, 2019, s 33
- s 45 amd No. 69, 1998, s 10
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- s 45A ins No. 7, 2003, s 7
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- ss 45B – 45C ins No. 7, 2003, s 7
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- s 45D ins No. 7, 2003, s 7
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- s 45DE ins No. 32, 2015, s 4
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s 45R	ins No. 36, 2007, s 29 rep No. 39, 2014, s 19
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s 49K	ins No. 39, 2014, s 24 amd No. 3, 2019, s 61
s 49L	ins No. 39, 2014, s 24 sub No. 3, 2019, s 6
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