

NORTHERN TERRITORY OF AUSTRALIA

SUPERANNUATION REGULATIONS 1986

As in force at 7 April 2023

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 7 April 2023

SUPERANNUATION REGULATIONS 1986

Regulations under the *Superannuation Act 1986*

1 Citation

These Regulations may be cited as the *Superannuation Regulations 1986*.

2 Commencement

These Regulations shall come into operation on the commencement of the *Superannuation Act 1986*.

4 Public authorities

For paragraph (b) of the definition **public authority** in section 3(1) of the Act, the authorities and bodies listed in the Schedule are classified as public authorities.

5 Approved allowances

- (1) For the purpose of the definition of **approved allowance** in rule 1 of the Rules, the following are to be regarded as part of a member's contribution salary at the member's entry date or annual review date:
- (a) an allowance which is automatically included in contribution salary if payable to a member at that date which is:
 - (i) paid in recognition of a particular skill, qualification or level of proficiency; or
 - (ii) payable as compensation for a loss of salary or wages incurred by the member while the member is undergoing a course of training for the purpose of promotion to another office; or
 - (iii) a Northern Territory allowance (at the rate received); or
 - (iv) payable in respect of housing or quarters while the member holds a particular office or performs particular duties or work;

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- (b) subject to subregulation (2), an allowance which is conditionally included in the member's contribution salary if payable at that date, which is:
- (i) payable for the member being in charge of staff, equipment or premises, or for particular administrative responsibilities, or by reason that the member is required to perform a special function as part of the member's duties or work; or
 - (ii) payable as compensation for the physical hardship or discomfort associated with the duties or work the member is required to perform; or
 - (iii) payable by reason that the member is liable to be called upon at any time during which the member is off duty; or
 - (iv) payable in lieu of payments for overtime or other extra duty work; or
 - (v) payable for shift work, being an allowance equal to so much of the member's salary or wages as is payable under the terms and conditions of the member's employment, solely by reason of the member performing work or duties during specified hours that are, under those terms and conditions of employment, normal hours of duty for the eligible employee; or
 - (vi) payable by reason that the member temporarily performs the whole or part of the duties of an office of higher classification than the classification of the office occupied by the member; or
 - (vii) an industry allowance payable to the member.
- (2) For the purposes of subregulation (1)(b), and of the definition of **approved allowance** in rule 1 of the Rules, an allowance shall not be regarded as having been or likely to be received in regular payments unless it is paid or is payable for not fewer than 75% of the pay periods in the 12 months immediately before or after the entry date or the relevant annual review date, as the case may be.
- (3) For the purposes of subregulation (1)(b), and of the definition **approved allowance** in rule 1 of the Rules, where the amount of the allowance paid or payable to a member:
- (a) does not vary from pay period to pay period (except because of general increases in salary or arbitration decisions) – the member's contribution salary, as determined at the member's entry date or annual review date, is taken to include the

amount of the allowance paid or payable at that date, expressed as an annual rate or amount; and

- (b) may vary from pay period to pay period (for example, in the case of a shift allowance) – the member's contribution salary, as determined at the member's entry date or annual review date, is taken to include the amount paid or due to the member in the 12 months preceding that date.
- (4) For the purposes of subregulation (3)(b), a payment in lieu of a shift allowance otherwise likely to have been received by a member during a period of leave is to be regarded as a shift allowance.

7 Release of amounts to pay tax debts

For section 45DA of the Act, definition **release authority**, the following provisions of Commonwealth Acts are prescribed:

- (a) Division 131 of Schedule 1 to the *Taxation Administration Act 1953* (Cth);
- (b) Division 135 of Schedule 1 to the *Taxation Administration Act 1953* (Cth).

Notes for regulation 7

- 1 *Division 131 relates to release of excess concessional contributions, excess non-concessional contributions, assessments of Division 293 tax and first home saver superannuation accounts. See also Division 291 of the Income Tax Assessment Act 1997 (Cth).*
- 2 *Division 135 relates to the release of amounts to pay Division 293 tax. See also Division 293 of the Income Tax Assessment Act 1997 (Cth) and the Superannuation (Sustaining the Superannuation Contribution Concession) Imposition Act 2013 (Cth).*

8 Time limits for applications for review of decisions

- (1) For section 49C(2)(a)(ii) of the Act, the time within which an application for review of a reviewable decision (the **original decision**) must be made is:
- (a) if the decision relates to a death benefit – 30 days after the original decision was made; or
 - (b) if the decision relates to a invalidity retirement benefit – 2 years after the original decision was made; or
 - (c) otherwise – 12 months after the original decision was made.

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- (2) For section 49G(2)(a) of the Act, the time within which an application for review of the decision of the Commissioner under section 49E (the **decision on review**) must be made is:
- (a) if the decision relates to a death benefit – 30 days after the decision on review was made; or
 - (b) if the decision relates to a invalidity retirement benefit – 2 years after the decision on review was made; or
 - (c) otherwise – 12 months after the original decision was made.
- (3) The Tribunal may allow a longer period within which an application for review may be made under subregulation (2)(a) or (c).
- (4) However, the Tribunal may do so for subregulation (2)(a) only if satisfied that the Commissioner failed to comply with section 49F of the Act.
- (5) In this regulation:

invalidity retirement benefit means a benefit payable under one of the following:

- (a) rule 10 of the Rules;
- (b) section 45Q of the Act;
- (c) section 22 of the *Legislative Assembly Members' Pensions Act 1979*;
- (d) clause 6(1)(b) of the instrument establishing the NTSS Scheme.

Schedule Public authorities

regulation 4

- 1 Australian Health Practitioner Regulation Agency
Health Practitioner Regulation National Law (NT)
- 2 Batchelor Institute of Indigenous Tertiary Education
Batchelor Institute of Indigenous Tertiary Education Act 1999
- 3 Charles Darwin University
Charles Darwin University Act 2003
- 4 Menzies School of Health Research
Menzies School of Health Research Act 1985
- 5 Board of the Museum and Art Gallery of the Northern Territory
Museum and Art Gallery of the Northern Territory Act 2014
- 6 Northern Territory Legal Aid Commission
Legal Aid Act 1990
- 7 Power and Water Corporation
Power and Water Corporation Act 1987
- 8 Power Generation Corporation
Power Generation Corporation Act 2014
- 9 Power Retail Corporation
Power Retail Corporation Act 2014

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2**LIST OF LEGISLATION*****Superannuation Regulations (SL No. 36, 1986)***

Notified	1 October 1986
Commenced	1 October 1986 (r 2, s 2 <i>Superannuation Act 1986</i> (Act No. 38, 1986) and <i>Gaz S70</i> , 1 October 1986, p 2)

Statute Law Revision Act 1987 (Act No. 9, 1987)

Assent date	27 May 1987
Commenced	27 May 1987

Statute Law Revision Act 1988 (Act No. 66, 1988)

Assent date	22 December 1988
Commenced	22 December 1988

Amendment of the Superannuation Regulations (SL No. 13, 1989)

Notified	12 July 1989
Commenced	12 July 1989

Amendment of Superannuation Regulations (SL No. 26, 1998)

Notified	1 July 1998
Commenced	1 July 1998 (r 1, s 2 <i>Housing Amendment Act 1998</i> (Act No. 44, 1998) and <i>Gaz S28</i> , 1 July 1998, p 1)

Amendment of Superannuation Regulations (SL No. 55, 1998)

Notified	23 December 1998
Commenced	23 December 1998 (r 1, s 2 <i>Darwin Port Authority Amendment Act 1998</i> (Act No. 80, 1998) and <i>Gaz S37</i> , 1 September 1999)

Statute Law Revision Act (No. 2) 2004 (Act No. 54, 2004)

Assent date	15 September 2004
Commenced	27 October 2004 (<i>Gaz G43</i> , 27 October 2004, p 3)

Statute Law Revision Act 2005 (Act No. 44, 2005)

Assent date 14 December 2005
 Commenced 14 December 2005

Northern Territory Tourist Commission Amendment Act 2006 (Act No. 4, 2006)

Assent date 8 March 2006
 Commenced 12 April 2006 (*Gaz* G15, 12 April 2006, p 2)

Law Reform (Work Health) Amendment Act 2007 (Act No. 30, 2007)

Assent date 12 December 2007
 Commenced 1 July 2008 (*Gaz* S29, 25 June 2008)

Superannuation Amendment Regulations 2010 (SL No. 6, 2010)

Notified 26 May 2010
 Commenced 26 May 2010

Superannuation Amendment Regulations 2011 (SL No. 9, 2011)

Notified 13 April 2011
 Commenced 13 April 2011 (r 2, s 2 *Superannuation Legislation Amendment Act 2010* (Act No. 42, 2010) and *Gaz* S13, 14 March 2011) (These Regulations were expressed to commence on 15 March 2011. However, they were not notified in the *Gazette* until 13 April 2011.)

Work Health and Safety (National Uniform Legislation) Implementation Act 2011 (Act No. 38, 2011)

Assent date 14 December 2011
 Commenced 1 January 2012 (*Gaz* S78, 30 December 2011)

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

Assent date 27 April 2012
 Commenced 27 April 2012

Health Practitioner (National Uniform Legislation) Implementation Act 2012 (Act No. 17, 2012)

Assent date 22 May 2012
 Commenced 1 July 2012 (s 2)

Museum and Art Gallery of the Northern Territory Act 2014 (Act No. 6, 2014)

Assent date 20 March 2014
 Commenced 1 July 2014 (s 2)

Power and Water Corporation Legislation Amendment Act 2014 (Act No. 13, 2014)

Assent date 13 May 2014
 Commenced 29 May 2014 (*Gaz* S29, 29 May 2014, p 2)

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

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

Assent date 27 February 2019
 Commenced pts 1 and 2: 2019 (s 2); pt 3: 12 April 2019 (*Gaz* S20, 10 April 2019); pt 4: 8 May 2019 (*Gaz* S30, 7 May 2019); pts 5 and 6: 26 June 2019 (*Gaz* G26, 26 June 2019, p 6)

Superannuation Amendment Regulations 2023 (SL No. 6, 2023)

Notified 6 April 2023
 Commenced 7 April 2023 (r 2)

3 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: rr 1 and 8 and Sch.

4 LIST OF AMENDMENTS

r 3 rep Act No. 39, 2014, s 45
 r 4 amd Act No. 9, 1987, s 3; Act No. 66, 1988, s 8; No. 13, 1989; No. 26, 1998,
 r 2
 sub No. 55, 1998, r 2
 amd Act No. 54, 2004, s 8; Act No. 44, 2005, s 35; Act No. 4, 2006, s 23; Act
 No. 30, 2007, s 59
 sub No. 6, 2010, r 3
 r 5 amd Act No. 39, 2014, s 46; No. 6, 2023, r 4
 r 6 ins No. 9, 2011, r 4
 amd Act No. 15, 2012, s 10
 rep Act No. 3, 2019, s 64
 r 7 ins Act No. 39, 2014, s 47
 amd No. 6, 2023, r 5
 r 8 ins Act No. 39, 2014, s 81
 amd No. 6, 2023, r 6
 sch ins No. 6, 2010 r 4
 amd Act No. 38, 2011, s 31; Act No. 17, 2012, s 55; Act No. 13, 2014, s 32;
 Act No. 6, 2014, s 43; Act No. 39, 2014, s 48