

**NORTHERN TERRITORY OF AUSTRALIA**

**SUPERANNUATION GUARANTEE (SAFETY NET) ACT**

As in force at 20 October 1998

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 20 October 1998

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## SUPERANNUATION GUARANTEE (SAFETY NET) ACT

**An Act to provide superannuation benefits for certain employees and office-holders in the public sector, and for related purposes**

### 1 Short title

This Act may be cited as the *Superannuation Guarantee (Safety Net) Act*.

### 2 Commencement

This Act shall be deemed to have come into operation on 1 July 1992.

### 3 Definitions

In this Act, unless the contrary intention appears:

**Commissioner** means the Commissioner of Superannuation appointed under the *Superannuation Act*.

**Commonwealth Act** means the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

**employee**, in relation to the Territory, means:

- (a) a person who is, by virtue of the Commonwealth Act, an employee of the Territory; and
- (b) a person or a person of a class of persons declared to be an employee under section 4(1)(a),

but does not include:

- (c) a person or a person of a class of persons declared under section 4(1)(b) not to be an employee.

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

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

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

**Territory** includes a statutory corporation.

**3A Scheme to comply with superannuation surcharge laws and agreements with Commonwealth**

This Act is to be administered in accordance with:

- (a) the Surcharge Act and the Surcharge Collection Act; and
- (b) a written agreement entered into by the Territory and the Commonwealth relating to exempt public sector superannuation schemes within the meaning of section 10 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

**3B 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 employee in relation to whom superannuation contributions surcharge is paid or payable, by the Commissioner, in respect of superannuation benefits under this Act.
- (2) The Commissioner must debit to the surcharge debt account of an employee:
  - (a) superannuation contributions surcharge in relation to the employee paid or payable by the Commissioner in respect of superannuation benefits under this Act; 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 employee an amount paid under section 3C by the employee.

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**3C Advance payments to reduce superannuation contributions surcharge**

- (1) An employee may, on lodging an approved election form with the Commissioner, pay an amount to the Commissioner for the purpose of reducing the amount by which the employee's 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 (1) is to specify the amount to be paid and the manner of the payment.
- (4) An employee may, by 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.
- (5) In this section, **approved election form** means a form approved by the Commissioner.

**3D Repayment of superannuation contributions surcharge**

Notwithstanding any other provision of this Act, the Commissioner may deduct from a superannuation benefit to be paid under this Act in relation to an employee an amount equal to the balance of the employee's surcharge debt account.

**4 Declaration**

- (1) The Commissioner may, for the purposes of this Act, declare that a person or a person of a class of persons:
  - (a) is an employee; or
  - (b) is not an employee,of the Territory.
- (2) A declaration under subsection (1):
  - (a) shall be in writing; and
  - (b) subject to subsection (3), takes effect from the date specified in the declaration or, where no date is specified, from the date of the declaration.

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- (3) A declaration under subsection (1) may be expressed to take effect on and from a date before the date of the declaration, and the declaration shall have effect accordingly.
  - (4) A copy of a declaration under subsection (1), where it relates to an individual person, shall be given to the person or, where it relates to a person of a class of persons, shall be published in the *Gazette*.

## **5 Benefit payments**

- (1) Where superannuation benefits, if any, to which an employee is entitled are less than the amount required to avoid payment of a superannuation guarantee charge under the Commonwealth Act in respect of the employee, the Territory shall pay, in respect of the employee, a superannuation benefit of an amount not less than that required to avoid payment of the charge.
- (2) In addition to subsection (1), the Territory may pay a superannuation benefit under this Act in respect of an employee notwithstanding that there is not a liability to pay a superannuation guarantee charge under the Commonwealth Act in respect of the employee.
- (3) A superannuation benefit paid under this section shall be the amount calculated in accordance with the administrative instructions prepared under section 6.
- (4) A superannuation benefit paid under this section shall be paid from moneys set aside for superannuation purposes and, to the extent that those moneys are inadequate, the benefit shall be paid from the public moneys of the Territory and the Allocation for that purpose is hereby established or increased to the extent necessary.

## **6 Administrative instructions**

- (1) For the purposes of this Act, the Commissioner shall prepare administrative instructions setting out the employees or classes of employees entitled to superannuation benefits under this Act, the method of calculating and paying those benefits, the notification to be given to employees of those benefits and such other matters as are necessary or convenient to ensure the efficient processing of benefit payments under this Act.
- (2) Administrative instructions prepared under subsection (1):
  - (a) shall be in writing;
  - (b) are of no force or effect unless approved by the Minister; and

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- (c) subject to subsection (3), take effect on and from the date on which approved.
- (3) Administrative instructions prepared under subsection (1) may be expressed to take effect on and from a date before the instructions are approved under subsection (2), and such instructions shall have effect accordingly.

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**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 Guarantee (Safety Net) Act 1993 (Act No. 26, 1993)***

Assent date	24 June 1993
Commenced	1 July 1992 (s 2)

***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 Act 1992</i> (Act No. 4, 1995) and Gaz S13, 31 March 1995)

***Superannuation Guarantee (Safety Net) Amendment Act 1998 (Act No. 70, 1998)***

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

**3****LIST OF AMENDMENTS**

s 3	amd No. 70, 1998, s 4
ss 3A – 3D	ins No. 70, 1998, s 5
s 5	amd No. 5, 1995, s 19