

NORTHERN TERRITORY OF AUSTRALIA

NORTHERN TERRITORY GOVERNMENT AND PUBLIC AUTHORITIES' SUPERANNUATION SCHEME RULES

As in force at 25 July 2001

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 25 July 2001

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Rules under the *Superannuation Act*

Part I Preliminary

1A Citation

These Rules may be cited as the *Northern Territory Government and Public Authorities' Superannuation Scheme Rules*.

1 Definitions

In these Rules, unless the contrary intention appears:

accrued employer component means an amount payable on a member's exit date from the Scheme as calculated by the formula:

$$\text{accrued employer component} = \frac{\text{total number of annual benefit points}}{100} \times \text{benefit salary} \times 2.5.$$

annual benefit points means the number of benefit points allocated a member each year as calculated by the formula:

$$\text{elected contribution rate} \times \text{part-time ratio} \times \frac{\text{number of salary periods in the year for which contributions made}}{\text{Number of salary periods in the year}}.$$

annual review date means the date specified by the Commissioner for each member as the date each year on which the member's contribution salary and part-time ratio will be determined by the member's employer.

approved allowance means so much of an allowance, or the value of an allowance, specified in the Regulations or these Rules to be regarded as part of a member's contribution salary as the

Commissioner is satisfied has been or is likely to be received by the member in regular payments over a period of not less than 12 months.

approved annuity means:

- (a) in relation to a benefit under rule 6(1) or an invalidity retirement benefit – an annuity purchased by a former member for his or her life or for a minimum of 10 years; and
- (b) in relation to a death benefit – an annuity purchased by a dependant of a deceased member out of moneys referred to in rule 9(4) for the life of the dependant or for a minimum of 10 years.

approved period of leave without pay means:

- (a) sick leave without pay;
- (b) maternity leave without pay;
- (c) a period of leave without pay during which the member receives periodic payments under an Act relating to workers' compensation;
- (d) with the approval of the Commissioner, a period of leave without pay during which the member is seconded to an employer not covered by the Scheme; or
- (e) any other period of leave without pay approved by the Commissioner.

average weekly earnings means the Average Weekly Earnings for Full Time Adult Persons, Weekly Ordinary Time Earnings for the Northern Territory as published quarterly in Catalogue Number 6302.0 by the Australian Statistician.

benefit means a benefit payable under the Scheme.

benefit salary, in relation to a member, means:

- (a) where 3 or more contribution salaries have been determined for him or her after having been adjusted to full time equivalent values and indexed by average weekly earnings to current values at the exit date – the average of the last 3 contribution salaries before his or her exit date so determined for him or her; and

- (b) where he or she has had less than 3 contribution salaries so determined – the average of the applicable lesser number of contribution salaries after those salaries have been so adjusted.

continuing invalidity income benefit means a benefit payable under rule 12 to a member.

contribution salary:

- (a) in relation to a member, other than:
- (i) a member of the Police Force who is not a Police Auxiliary appointed under section 19 of the *Police Administration Act*; or
 - (ii) a person employed as referred to in paragraph (c) of this definition,

means the actual annual rate of salary and approved allowances certified by his or her employer and accepted by the Commissioner as payable at the member's entry date or annual review date;

- (b) in relation to a member of the Police Force (other than a Police Auxiliary or a person employed as referred to in paragraph (c) of this definition), means the sum of:
- (i) 130% of the actual annual rate of salary certified and accepted as mentioned in paragraph (a); and
 - (ii) the annual amount so certified and accepted of any allowance in the nature of a Northern Territory allowance (by whatever name called); and
- (c) in relation to a member employed under an Executive Contract of Employment within the meaning of the *Public Sector Employment (Interim Arrangements) Act* or any Act in substitution for that Act, means the notional salary, as defined in the contract, certified by his or her employer and accepted by the Commissioner as payable at the member's entry date or annual review date.

death benefit means the benefit payable under rule 9 on the death of a member.

declared interest rate means the interest rate declared under section 41 of the Act, and includes an interim rate fixed by the Investment Board for the purpose of crediting interest to a member's accumulation account before paying out the balance of that account.

elected contribution rate means the rate of 2, 3, 4, 5 or 6% of contribution salary elected by a member as the rate of payment of his or her contributions.

entry date means the date on which a person became a member.

exit date means the date on which a person ceased to be a member.

invalidity, in relation to a member, means an assessment by the Commissioner, after considering medical and other relevant evidence, that the member has become incapacitated to such an extent as to be rendered unable to perform any available work for which he or she is reasonably qualified by education, training or experience with any employer covered by the Scheme.

invalidity retirement benefit means the benefit payable under rule 10 to a member.

member means an eligible employee.

part-time ratio means the ratio obtained by dividing a member's actual hours of work by the relevant number of equivalent full-time hours of work as at the member's entry date and annual review dates or, where in the opinion of the Commissioner this method or date cannot or should not be used, by any other method or at any other date determined by the Commissioner.

prospective benefit points means the number of prospective benefit points allocated a member who becomes entitled to a death or invalidity retirement benefit calculated by the formula:

$$\text{prospective membership} \times \text{standard contribution rate} \times \text{part-time ratio applicable at the member's exit date.}$$

prospective employer component means an amount calculated by the formula:

$$\frac{\text{prospective benefit points}}{100} \times \text{benefit salary} \times 3.5.$$

prospective membership means:

- (a) in relation to a member who on his or her exit date has not attained the age of 60 years – subject to paragraphs (b) and (c), the number of years (with a part year being expressed as a fraction of a whole year) between his or her exit date and his or her sixty fifth birthday or, if sooner, the date on which he or she attains his or her maximum retirement age;
- (b) in relation to a member referred to in paragraph (a) whose maximum retirement age is 65 years, and who on his or her exit date has attained the age of 50 years but has not attained the age of 55 years – the number of years calculated in accordance with that paragraph reduced by the number of years (with a part year being expressed as a fraction of a whole year) between his or her exit date and his or her fiftieth birthday;
- (c) in relation to a member who on his or her exit date has attained the age of 55 years – the number of years (with a part year being expressed as a fraction of a whole year) between his or her exit date and his or her sixtieth birthday; and
- (d) in relation to a member who on his or her exit date has attained the age of 60 years – nil.

reduced benefit classification means a classification applied to a member where he or she has been assessed by the Commissioner (after the Commissioner receiving medical advice) as having a significant risk of death or invalidity retirement in the first 10 years of membership because of a physical or mental condition existing on his or her entry date.

resign, in relation to a member, means:

- (a) the voluntary cessation of his or her employment; or
- (b) the cessation of that employment where he or she is engaged on a contract of service for a fixed term or terms and the contract is completed or is otherwise lawfully brought to an end.

retrenchment, in relation to a member, means the involuntary termination of his or her employment as an eligible employee where the termination is expressed to be on the ground that:

- (a) his or her employment is not necessary and his or her position is not to be filled;
- (b) the work for which he or she was engaged is finished; or

- (c) the quantity of work has diminished and rendered necessary a reduction in the number of employees,

but does not include the termination of his or her employment in a circumstance referred to in paragraph (b) of the definition of **resign**.

standard contribution rate means a contribution rate of 5%.

Part II Classification and contributions

2 Medical classification on entry

- (1) Subject to subrule (3), a member shall, on or as soon as practicable after his or her entry date, complete and submit to the Commissioner a medical declaration in the approved form.
- (2) A member need not complete and submit a medical declaration under subrule (1) where the Commissioner accepts a medical classification or status applying to the member under an approved previous superannuation scheme of which he or she was a member.
- (3) As soon as practicable after he or she receives the completed form referred to in subrule (1), the Commissioner may require the member to provide further medical information or to undergo a medical examination or examinations by an approved medical practitioner.
- (4) Subject to subrule (2), a member who refuses to complete a medical declaration, provide additional medical information or undergo a medical examination required under subrule (3) shall be entitled to a benefit under the Scheme as provided in rule 3(5) as if a reduced benefit classification certificate had been issued for the condition or circumstance giving rise to the claim for benefits.

3 Reduced benefit classification

- (1) The Commissioner may, after receiving medical advice, issue a reduced benefit classification certificate in respect of a member if he or she is of the opinion that the member has a significant risk of death or invalidity retirement in the first 10 years of Scheme membership by reason of a physical or mental condition (or combination of conditions) existing on his or her entry date.
- (2) Where the Commissioner has accepted a medical classification or status under an approved previous superannuation scheme, he or she shall, unless the accepted medical classification or status indicates no significant risk of invalidity or other significant health risk, issue a reduced benefit classification certificate which

conforms to that medical classification or status.

- (3) A reduced benefit classification certificate issued under subrule (1) or (2) shall specify the conditions to which the reduced benefit classification relates.
- (4) Where the Commissioner issues a reduced benefit classification certificate to a member, he or she shall provide to the member his or her reasons for issuing it.
- (5) Subject to subrule (6), where a reduced benefit classification certificate has been issued in respect of a member and entitlement to a death or invalidity retirement benefit occurs during the first 10 years after the entry date of the member (or lesser period approved by the Commissioner in the case of a person whose medical classification or status in an approved previous superannuation scheme has been accepted by the Commissioner) and entitlement to the benefit is directly attributable to the condition specified in the reduced benefit classification certificate, the prospective employer component of the benefit is payable in the proportion determined by the formula:

$$\frac{\text{complete months of membership between entry date and exit date}}{120}$$

- (6) Subject to the Regulations, the Commissioner may, in his or her discretion, adjust the formula under clause (5) where the reduced benefit classification certificate has been issued on the basis of a medical classification or status under an approved previous superannuation scheme.
- (7) Where the prospective employer component of an invalidity retirement benefit becomes payable to a member and:
 - (a) less than 10 years membership since his or her entry date has elapsed;
 - (b) a reduced benefit classification is not in force in respect of him or her;
 - (c) the cause of his or her invalidity is directly attributable to a medical condition the Commissioner has reasonable grounds for believing existed at the entry date and the Commissioner has reasonable grounds for believing that the condition was known to the member at the entry date but was not disclosed by the member; and
 - (d) had the condition been disclosed it would have been likely to result in the issue of a reduced benefit classification certificate,

the Commissioner may, after receiving medical advice, determine the proportion of the prospective employer component of the benefit payable to the member as though a reduced benefit classification certificate had been issued on entry.

4 Salary for superannuation purposes

- (1) A member's contribution salary and part-time ratio at his or her entry date and each annual review date shall be certified by his or her employer and approved by the Commissioner.
- (2) A member's salary for benefit purposes is his or her benefit salary immediately before his or her exit date.
- (3) Where a member's exit date occurs during or immediately after a period of leave without pay during which he or she was not eligible to make contributions, his or her benefit salary will be calculated on contribution salaries determined before the leave, adjusted to full time equivalent values and indexed to his or her exit date.
- (4) Where a member is on an approved period of leave without pay, the Commissioner may, subject to such conditions as he or she thinks fit, determine the member's contribution salary during that approved period of leave.
- (5) Where a member's contribution salary at an annual review date is determined to be less than his or her contribution salary immediately before that annual review date and the reason for the reduction in contribution salary is not due to his or her undertaking part time work, the Commissioner may, on application in writing from the member, accept the next previous higher contribution salary as the contribution salary for that annual review date.

5 Contributions

- (1) On or within an approved period after a member's entry date the member must, in an approved form, elect 2, 3, 4, 5 or 6% as the percentage of his or her contribution salary to be credited to the member's accumulation account.
- (1A) Subject to this rule, on payment of a member's salary for each pay period while he or she remains a member and is eligible to make contributions, the amount determined in accordance with subrule (1) is to be deducted from the member's salary and credited to the member's accumulation account.
- (2) A member who fails to make an election under clause (1) within the approved period shall be deemed to have elected 5% as the percentage of his or her contribution salary to be deducted from his or her salary and credited to his or her accumulation account.

- (3) A member may, at an approved annual review date, by an election in an approved form forwarded to the Commissioner by an approved date, vary his or her election under subrule (1) or as deemed under subrule (2) and, subject to this rule, on payment of his or her salary for each pay period while he or she remains a member and is eligible to make contributions, contributions of the rate so varied shall be deducted from his or her salary and credited accordingly.
- (4) A member shall, subject to this rule, make contributions to his or her accumulation account notwithstanding that:
 - (a) he or she is receiving part salary only; or
 - (b) he or she is on leave without pay not exceeding 3 months.
- (5) A member is not eligible to contribute to his or her accumulation account:
 - (a) while on leave without pay exceeding 3 months where that leave is not an approved period of leave without pay; or
 - (b) while receiving a benefit under rule 11.
- (6) A member is not required, but is eligible on application in writing to the Commissioner, to make contributions to his or her accumulation account while he or she is on an approved period of leave without pay exceeding 3 months.
- (7) Where a member is required or is eligible to make contributions to his or her accumulation account but is receiving no salary or less than his or her normal salary, the Commissioner may, on application in writing by the member, permit the member to reduce his or her elected contribution rate or to make payment of the contributions falling due in such instalments and at such times as the Commissioner approves and the Commissioner shall make such adjustments as he or she thinks fit to the annual benefit points of the member as fairly reflect the approved arrangements.
- (8) Where an eligible employee voluntarily terminates his or her employment in order to become a candidate for election as a member of the Legislative Assembly, a House of Parliament of the Commonwealth or a State not earlier than one month before the date on which nominations for the election closed, he or she shall, on application in writing to the Commissioner, be deemed for the purposes of the Scheme to be an eligible employee on an approved period of leave without pay for the period between the date of his or her terminating his or her employment and the date 2 months after the date of the declaration of the result of the election, unless in the meantime he or she has resumed employment as an eligible

employee or has elected to cease to be a member.

5A Funding of employer-financed benefits during approved leave without pay

Where under these Rules the approval of the Commissioner is required for a period of leave without pay to constitute an approved period of leave without pay, it may be a condition of the Commissioner's approval that payments to cover the cost of the employer-financed component of benefits accruing during the period will be made either by the eligible employee or by some other person or body.

5B Salary sacrifice

- (1) A member may elect to participate in an approved salary sacrifice arrangement.
- (2) An amount sacrificed by a member under such an arrangement is to be paid into the Fund by the member's employer and is to be credited to the member's accumulation account.
- (3) An amount sacrificed by a member is not to be taken to be a employer-financed benefit for the purposes of Part III.

5C Voluntary contributions

- (1) A member who is making contributions to his or her accumulation account under rule 5 may elect to make in an approved manner additional contributions to that account.
- (2) An election under subrule (1) is to be in an approved form.
- (3) An additional contribution by a member is not to be taken to be a employer-financed benefit for the purposes of Part III.

Part III Benefits

6 Age retirement benefit

- (1) A member who retires after attaining the age of 55 years must receive a benefit comprising:
 - (a) a refund of the amount credited to his or her accumulation account, if any; and
 - (b) the accrued employer component,

less the amount of the balance of the member's surcharge debt account.

- (2) A member who resigns after attaining the age of 55 years shall, for the purposes of this rule, be deemed to have retired.
- (3) Where a former member has received benefit under subrule (1) and within 90 days, or such longer period as is approved, after receiving the benefit purchases an approved annuity, he or she shall be entitled to an annuity bonus equal to 5% of so much of the purchase price of the approved annuity as is attributable solely to the contributions made and the benefits received under the Scheme.

7 Resignation benefit

- (1) A member who resigns, or who ceases to be an eligible employee and is not entitled to another benefit under the Scheme, must receive a benefit comprising:
 - (a) a refund of the amount credited to his or her accumulation account; and
 - (b) where his or her exit date occurs after the first 5 years of his or her membership (excluding periods where the member was not eligible to contribute) – the accrued employer component multiplied by $\frac{X}{60}$, where X equals the number of complete months of his or her membership during which he or she was eligible to contribute after that first 5 years of his or her membership but in any case is not greater than 60,

less the amount of the balance of the member's surcharge debt account, if any.

- (2) In calculating a period of membership for the purposes of subrule (1), any prior period of membership during which the member was eligible to contribute may be taken into account.

8 Retrenchment benefit

A member who is retrenched must receive a benefit comprising:

- (a) a refund of the amount credited to his or her accumulation account; and
- (b) the accrued employer component,

less the amount of the balance of the member's surcharge debt account, if any.

9 Death benefit

- (1) Subject to the Act, where a member dies leaving a dependant or dependants, there is payable to his or her estate a benefit comprising:
- (a) a refund of the amount credited to his or her accumulation account;
 - (b) the accrued employer component; and
 - (c) subject to subrule (2), the prospective employer component subject to a reduced benefit classification if applicable,
- less the amount of the balance of the member's surcharge debt account, if any.
- (2) Any amount payable under subrule (1)(c) shall be reduced by the amount of any lump sum benefit payable under worker's compensation legislation to a dependant of the deceased member in respect of his or her death.
- (3) Where a member dies leaving no dependant or dependants there is payable to the member's estate:
- (a) the amount credited to his or her accumulation account; and
 - (b) the accrued employer component,
- less the amount of the balance of the member's surcharge debt account, if any.
- (4) Where a benefit under subrule (1) is paid and within 90 days, or such longer period as is approved, after the benefit is paid a dependant of the deceased member participating in the distribution of the estate of the deceased member purchases an approved annuity, that dependant is entitled to an annuity bonus equal to 5% of so much of the amount of the purchase price of the approved annuity which, in the opinion of the Commissioner, is proportionate to the share of that dependant in that part of the net estate and which can also fairly be attributable solely to the contributions made under the Scheme by the deceased member and to the benefits received under the Scheme by the estate.

10 Invalidity retirement benefit

- (1) A member who is retired from employment on the grounds of invalidity in accordance with section 50 of the Act or who is assessed by the Commissioner as being subject to invalidity must receive a benefit comprising:
 - (a) a refund of the amount credited to his or her accumulation account;
 - (b) the accrued employer component; and
 - (c) subject to subrule (2), the prospective employer component subject to a reduced benefit classification if applicable,less the amount of the balance of the member's surcharge debt account, if any.
- (2) Where a member on invalidity retirement is also entitled to periodic payments for loss of earning capacity under workers' compensation legislation, the prospective employer component of the benefit under subrule (1) is payable only to the extent to which its value exceeds the actual or notional redemption value of the workers' compensation periodic payments as determined by an approved actuary.
- (3) Where a benefit under subrule (1) is paid and within 90 days, or such longer period as is approved, after it is paid the former member to whom it is paid purchases an approved annuity, he or she is entitled to an annuity bonus equal to 5% of so much of the purchase price of the approved annuity as is attributable solely to the contributions made and the benefits received under that Scheme.

11 Temporary invalidity income benefit

- (1) Where a member is unable to resume employment because of physical or mental incapacity and, in the opinion of the Commissioner, a further period is needed for assessment or rehabilitation before a decision can be made on the member's retirement on the grounds of invalidity, the Commissioner may determine that a benefit is payable to the member, in accordance with this rule, to alleviate financial hardship and a benefit so determined shall be paid accordingly.
- (2) In determining whether a benefit is payable under subrule (1), the Commissioner must be satisfied that financial hardship exists and shall consider the member's entitlement to paid sick leave, periodic payments under workers' compensation legislation, periodic payments from disability insurance arrangements and other direct

or indirect sources of income support.

- (3) The maximum rate of payment for a benefit under subrule (1) is an amount sufficient to raise the member's current income as an eligible employee (including paid sick leave, periodic payments under worker's compensation legislation, periodic payments from disability insurance arranged by the member or similar payments) to 80% of the member's contribution salary determined at the last annual review date prior to the incapacity but may be such lesser percentage as the Commissioner determines having regard to subrule (2).
- (4) Payment of a benefit under subrule (1) shall be reviewed regularly by the Commissioner and be paid for a maximum period of 12 months or periods aggregating 12 months.

12 Continuing invalidity income benefit

- (1) A member who experiences a reduction in salary on the grounds of physical or mental incapacity may apply to the Commissioner for payment of a continuing invalidity income benefit.
- (2) Where the Commissioner is satisfied, after considering relevant medical, employment or other evidence, that the reduction in salary referred to in subrule (1) is due to physical or mental incapacity, he or she may approve payment of a continuing invalidity income benefit and the benefit shall be paid accordingly.
- (3) A continuing invalidity income benefit is not affected by any reduced benefit classification which may be in force in respect of the member.
- (4) The rate of payment of a benefit under subrule (2) is 80% of the difference between the reduced salary and the salary received prior to incapacity.
- (5) Salaries referred to in subrules (4) and (6) include any periodic payments received by the member under workers' compensation legislation.
- (5A) In calculating a benefit under subrule (2), there shall be disregarded so much of any reduction in salary as is attributable to a change in the number of hours worked by the member.
- (6) The rate of payment of a benefit under subrule (2) remains constant (it is not indexed) but may be reviewed where the Commissioner determines that a change is warranted after considering any change in the salary currently being received by the member after a benefit has been paid under that subrule.

- (7) Payment of a benefit under subrule (2) to a member ceases on his or her ceasing to be a member.
- (8) A benefit under subrule (2) shall be regarded as an approved allowance for the purpose of determining contribution salary at an annual review date.

13 Preservation of benefits

- (1) A member, on ceasing to be an eligible employee, may, in an approved form, elect to preserve a benefit in the Scheme.
- (2) If an election referred to in subrule (1) is made, any employer-financed benefits due at the member's exit date shall be calculated and transferred to the Fund to be credited to the member's accumulation account. Benefits may be preserved until the former member's sixty fifth birthday but may be withdrawn earlier, unless in the meantime the former member has again become an eligible employee.

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 = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Northern Territory Government and Public Authorities' Superannuation Scheme Rules (Act No. 38, 1986 (sch to Superannuation Act, s 37))***

Assent date	19 September 1986
Commenced	1 October 1986 (<i>Gaz</i> S70, 1 October 1986, p 2)

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

Assent date	14 December 1987
Commenced	s 14: 1 October 1986; rem: 1 January 1988 (s 2)

Notice Amending Scheme Rules under Superannuation Act (SL No. 36, 1992)

Notified	4 August 1992
Commenced	4 August 1992

Amendments of Scheme Rules (SL No. 8, 1993)

Notified	2 June 1993
Commenced	2 June 1993

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

Assent date	23 September 1998
Commenced	20 October 1998 (<i>Gaz</i> S41, 20 October 1998)

Amendments of Northern Territory Government and Public Authorities' Superannuation Scheme Rules (SL No. 37, 2001)

Notified	25 July 2001
Commenced	25 July 2001

3 LIST OF AMENDMENTS

r 1A	ins No. 37, 2001, r 2
r 1	amd Act No. 56, 1987, s 16; No. 36, 1992; Act No. 69, 1998, s 10
rr 2 – 3	amd Act No. 69, 1998, s 10
r 4	amd Act No. 56, 1987, s 16; Act No. 69, 1998, s 10

ENDNOTES

r 5	amd Act No. 69, 1998, s 10
r 5A	ins Act No. 56, 1987, s 16
rr 5B – 5C	ins No. 37, 2001, r 3
r 6	amd No. 8, 1993, r 1; Act No. 69, 1998, ss 9 and 10
r 7	amd Act No. 69, 1998, s 9
r 8	sub Act No. 69, 1998, s 9
r 9	amd Act No. 69, 1998, ss 9 and 10
r 10	amd Act No. 56, 1987, s 16; No. 8, 1993, r 2; Act No. 69, 1998, s 9
r 12	amd Act No. 56, 1987, s 16; Act No. 69, 1998, s 10