

# NORTHERN TERRITORY OF AUSTRALIA

## NORTHERN TERRITORY GOVERNMENT AND PUBLIC AUTHORITIES' SUPERANNUATION SCHEME RULES

As in force at 1 January 2011

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**ENDNOTES**

# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Rules as in force at 1 January 2011. Any amendments that commence after that date are not included.

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## NORTHERN TERRITORY GOVERNMENT AND PUBLIC AUTHORITIES' SUPERANNUATION SCHEME RULES

### 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:

***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.

***annuity*** includes a market linked pension.

***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; or
- (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; or
- (b) maternity leave without pay; or
- (c) a period of leave without pay during which the member receives periodic payments under an Act relating to workers' compensation; or
- (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; or

- (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; or

- (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); or
- (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.

***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.

**former member** means:

- (a) a former eligible employee; or
- (b) a transferee as defined in rule 13C(1).

**Government contribution** means a Government contribution payable under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* (Cth).

**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.

**NTSSS** means the Northern Territory Supplementary Superannuation Scheme.

**NTSSS instrument** means the instrument establishing the Northern Territory Supplementary Superannuation Scheme, as in force from time to time.

**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.

**preserved benefit** means a benefit preserved under rule 13, 13A, 13B or 13C.

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***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; or
- (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; or
- (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; or
- (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; or
- (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%.

***superannuation guarantee shortfall*** has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992* (Cth).

***worker's compensation agreement*** means an agreement (whenever entered into) 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.

*Example*

*An example of a worker's compensation agreement is a Hopkins agreement, so called after the decision in Hopkins v Collins-Angus & Robertson Pty Ltd (unreported, Angel J, Supreme Court, 21 May 1997).*



## **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; and
  - (b) a reduced benefit classification is not in force in respect of him or her; and
  - (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 must, subject to this rule, make contributions to his or her accumulation account despite that:
  - (a) he or she is receiving part salary only; or
  - (b) he or she is on leave without pay not exceeding 14 days.
- (4A) 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 leave without pay exceeding 14 days but 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 3.

**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 3.

**5D Co-contributions for low income earners**

- (1) If a Government contribution payable in respect of a member is paid into the Fund, the contribution must be credited to the member's accumulation account.
- (2) A Government contribution is not an employer-financed benefit for the purposes of Part 3.

**5E Contributions to spouse accounts**

- (1) This rule applies in relation to an account established under section 45A of the Act for the spouse of a member or former member.
- (2) The member or former member, the spouse or both may make contributions to the account.
- (3) The contributions must be paid from post-tax moneys and may be paid by way of:
  - (a) rollovers; or
  - (b) Government contributions; or
  - (c) superannuation guarantee shortfalls.
- (4) The contributions cannot be paid by way of salary sacrifice.
- (5) The contributions must not be taken to be employer-financed benefits for the purposes of Part 3.
- (6) In this rule:

*spouse* has the same meaning as in section 6(1) of the *Income Tax Assessment Act 1936* (Cth).

**5F Contributions by former members with preserved benefits**

- (1) This rule applies to a former member who has a preserved benefit.
- (2) The former member may make contributions to his or her accumulation account.
- (3) The contributions must be paid from post-tax moneys and may be paid by way of:
  - (a) rollovers; or
  - (b) Government contributions; or
  - (c) superannuation guarantee shortfalls.
- (4) The contributions cannot be paid by way of salary sacrifice.
- (5) The contributions must not be taken to be employer-financed benefits for the purposes of Part 3.

**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:
  - (a) the contributions made under rule 5 to the accumulation account; and
  - (b) the accrued employer component.

**6A                    Benefit at preservation age**

- (1) A member who has attained the preservation age may, in an approved form, elect to take a benefit under this rule.
- (2) If a member who is an eligible employee under the NTSSS makes an election under clause 6(4) of the NTSSS instrument to take a benefit under that clause, the election also takes effect as an election under subrule (1).
- (3) A member who makes an election under subrule (1) 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, if any.

(4) A member ceases to be an eligible employee when the member makes an election under subrule (1).

(5) In this rule:

**preservation age**, see regulation 6.01(2) of the *Superannuation Industry (Supervision) Regulations 1994* (Cth).

*Note for rule 6A*

*The administration of the NTGPAS Scheme is subject to the inter-governmental agreement mentioned in section 3A of the Act. As a result, payment of a benefit under this rule is subject to the cashing restrictions mentioned in Schedule 1, Part 1, item 110 of the Superannuation Industry (Supervision) Regulations 1994 (Cth).*

## **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

$\frac{X}{60}$ ,  
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; and
- (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) An amount payable under subrule (1)(c) must be reduced by any of the following amounts payable to a dependent of a deceased member in respect of the member's death:

- (a) a lump sum benefit payable under workers' compensation legislation;
- (b) an amount payable under a worker's compensation agreement.

(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:

- (a) the contributions made under rule 5 to the accumulation account; and
- (b) the accrued employer component; and
- (c) the prospective employer component payable under subrule (1)(c).

## **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; and
  - (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:
  - (a) the actual or notional redemption value of the periodic payments as determined by an approved actuary; or
  - (b) an amount payable to the member under a worker's compensation agreement instead of the periodic payments.
- (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:
  - (a) the contributions made under rule 5 to the accumulation account; and
  - (b) the accrued employer component; and

- 
- (c) the prospective employer component payable under subrule (1)(c).

## **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.

### **13A Unclaimed benefits**

If a member does not make an election under rule 13 within 12 months after ceasing to be an eligible employee or any shorter period required by the Commissioner:

- (a) the Commissioner may decide to treat the member as having elected to preserve a benefit in the Scheme; and
- (b) if the Commissioner makes that decision, rule 13(2) applies as if the election had been made under rule 13(1).

**13B Returned benefits**

If the whole or part of a benefit paid to or on behalf of a former member is returned to the Commissioner, rule 13(2) applies in relation to the amount returned as if it were a benefit that had been preserved under the Scheme.

**13C Payments from NTSSS or NTPSBS**

- (1) This rule applies if an amount is paid into the Fund for a person (the *transferee*):
  - (a) under clause 6(3) or (4) of the NTSSS instrument; or
  - (b) under a provision of the NTPSBS trust deed that allows for a benefit payable under that trust deed to be paid to the Fund.
- (2) If the transferee does not have an accumulation account, the Commissioner must establish and maintain an accumulation account for the transferee.
- (3) The Commissioner must credit the amount paid into the Fund to the transferee's accumulation account.
- (4) In this rule:

*NTPSBS trust deed* means the trust deed dated 15 June 1984 establishing the Northern Territory Police Supplementary Benefit Fund, as amended from time to time.

*Note for rule 13C*

*When a transfer is made as described in rule 13C(1) the transferee becomes a former member (see rule 1, definition former member).*

**13D Deduction of surcharge from preserved benefits**

- (1) This rule applies if:
  - (a) a former member has a preserved benefit; and
  - (b) on or after the commencement of the Surcharge Collection Act, the Commissioner received or receives an assessment of superannuation contributions surcharge payable by the member.

*Note for subrule (1)(b)*

*The Surcharge Collection Act commenced on 5 June 1997.*

- (2) The Commissioner must, by notice in writing:
  - (a) inform the former member of the assessment; and

- (b) advise the former member that the member may:
    - (i) pay the amount of the assessment to the Commissioner who will then pay it to the Commissioner of Taxation; or
    - (ii) authorise the Commissioner to deduct the amount of the assessment from the member's accumulation account and pay it to the Commissioner of Taxation; and
  - (c) advise the former member that, if the member does not take any action in accordance with paragraph (b) within the period specified in the notice, the Commissioner will deduct the amount of the assessment from the member's accumulation account and pay it to the Commissioner of Taxation.
- (3) If the former member does not take any action in accordance with subrule (2)(b) within the period specified in the notice, the Commissioner must deduct the amount of the assessment from the member's accumulation account and pay it to the Commissioner of Taxation.

## **Part IV                    Membership of certain employees**

### **14                    Definitions**

- (1) In rule 15(1) and (3):

*commencement day* means the day on which this Part comes into operation.

- (2) In rule 17:

*entry date*, for a person, means the date on which the person's application was accepted by the Commissioner under rule 16(2).

### **15                    Application of Part**

- (1) This Part applies despite anything to the contrary in these Rules.
- (2) Subject to subrule (3), this Part applies to a person who:
- (a) on the commencement day, is a permanent employee with the Territory or a public authority; and
  - (b) has been in continuous employment with the Territory or a public authority that commenced before 10 August 1999; and
  - (c) on the commencement day, is not a member.

- (3) This Part applies in relation to the person only if one of the following applies:
- (a) the person became a permanent employee before 10 August 1999 but, because a declaration under section 3(2)(a) of the Act was in force in respect of the person, was not a member on that date;
  - (b) the person became a permanent employee before 10 August 1999 but, for some other reason, was not a member on 10 August 1999;
  - (c) the person became a permanent employee on or after 10 August 1999;
  - (d) the person is otherwise entitled to be a member.

## **16 Application for membership**

- (1) The person may, within 3 months after the commencement day or any further period allowed by the Commissioner, apply to the Commissioner to become a member.
- (2) The Commissioner must consider the application and accept or refuse to accept it.
- (3) If the Commissioner accepts the application, rules 17 and 18 apply.

## **17 Election to contribute for period prior to entry date**

- (1) The person may elect to contribute to his or her accumulation account 2, 3, 4, 5 or 6 % of his or her salary for the period commencing on the later of the date on which the person became a permanent employee and 10 August 1999 and ending on the day before the person's entry date.
- (2) The person's salary for subrule (1) must be determined in accordance with rule 4 as if:
  - (a) the person had been a member for that period; and
  - (b) the person's entry date were the later of the date on which the person became a permanent employee and 10 August 1999.
- (3) The amount payable under subrule (1):
  - (a) must be paid to the Commissioner within 12 months after the person's entry date or any further period allowed by the Commissioner; and

- (b) may be paid in instalments, but cannot be paid by way of salary sacrifice or rollover.
- (4) On receipt of that amount, the Commissioner must determine, after considering any actuarial advice he or she thinks appropriate, the number of benefit points to be allocated to the person as at the person's entry date.
- (5) If, at the end of the period for payment of that amount, the Commissioner has received only part of that amount, the Commissioner must determine the number of benefit points to be allocated to the person as at the person's entry date in accordance with the following formula:

$$BP \times \frac{AR}{AP}$$

where:

BP is the number of benefit points the Commissioner would have allocated to the person under subrule (4) if the amount payable under subrule (1) had been received.

AR is the amount received.

AP is the amount payable under subrule (1).

- (6) For the purpose of calculating the person's accrued employer component, the person's total number of annual benefit points includes the number of benefit points allocated to the person under subrule (4) or (5).

## **18 Application of rules 3, 5 and 7**

- (1) The Commissioner must not issue a reduced benefit classification certificate under rule 3(1) in respect of the person unless the Commissioner is of the opinion that the condition or combination of conditions referred to in rule 3(1) existed on the later of the date on which the person became a permanent employee and 10 August 1999.
- (2) If the Commissioner issues a reduced benefit classification certificate in respect of the person, for rule 3, the person's entry date is taken to be the later of the date on which the person became a permanent employee and 10 August 1999.
- (3) For rule 5, the person's entry date is taken to be the date on which the person's application was accepted by the Commissioner under rule 16(2).



- (4) For rule 7, the period of membership during which the person was eligible to contribute is taken to include any period the person would have been a member eligible to contribute had the person become a member on the later of the date on which the person became a permanent employee and 10 August 1999.

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**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                  |
| <i>Gaz</i> = <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 |

***Northern Territory Government and Public Authorities' Superannuation Scheme Amendment Rules 2005 (SL No. 24, 2005)***

|           |  |
|-----------|--|
| Notified  | 20 July 2005   |
| Commenced | r 6: 12 November 2003; rem: 20 July 2005 (r 2 and <i>Gaz</i> G29, 20 July 2005, p 3) |

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***Northern Territory Government and Public Authorities' Superannuation Scheme Amendment Rules 2006 (SL No. 13, 2006)***

Notified 3 May 2006  
 Commenced rr 3 and 6: 21 January 2005; rem: 3 May 2006 (r 2 and *Gaz* G18, 3 May 2006, p 2))

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

Assent 12 December 2007  
 Commenced 23 January 2008 (*Gaz* G3, 23 January 2008, p 3)

***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* S75, 23 December 2010); rem: 15 March 2011 (*Gaz* S13, 14 March 2011)

### 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; No. 24, 2005, r 4; No. 13, 2006, r 4; Act No. 36, 2007, s 39; Act No. 42, 2010, s 29  
 r 2 amd Act No. 69, 1998, s 10  
 r 3 amd Act No. 69, 1998, s 10; Act No. 42, 2010, s 32  
 r 4 amd Act No. 56, 1987, s 16; Act No. 69, 1998, s 10  
 r 5 amd Act No. 69, 1998, s 10; No. 24, 2005, r 5  
 r 5A ins Act No. 56, 1987, s 16  
 r 5B ins No. 37, 2001, r 3  
 amd Act No. 36, 2007, s 39  
 r 5C ins No. 37, 2001, r 3  
 amd Act No. 36, 2007, s 39  
 r 5D ins No. 24, 2005, r 6  
 amd No. 13, 2006, r 5; Act No. 36, 2007, s 39  
 r 5E ins No. 13, 2006, r 6  
 amd Act No. 36, 2007, s 39  
 r 5F ins No. 13, 2006, r 6  
 amd Act No. 36, 2007, s 39  
 r 6 amd No. 8, 1993, r 1; Act No. 69, 1998, ss 9 and 10; No. 24, 2005, r 7  
 r 6A ins Act No. 42, 2010, s 30  
 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; No. 24, 2005, r 8; No. 13, 2006, r 7; Act No. 42, 2010, s 32  
 r 10 amd Act No. 56, 1987, s 16; No. 8, 1993, r 2; Act No. 69, 1998, s 9; No. 24, 2005, r 9; No. 13, 2006, r 8; Act No. 42, 2010, s 32  
 r 12 amd Act No. 56, 1987, s 167; Act No. 69, 1998, s 10  
 r 13 amd Act No. 36, 2007, s 39  
 rr 13A – 13B ins No. 13, 2006, r 9  
 r 13C ins No. 13, 2006, r 9  
 sub Act No. 42, 2010, s 31  
 r 13D ins No. 13, 2006, r 9  
 pt IV hdg ins No. 24, 2005, r 10  
 r 14 ins No. 24, 2005, r 10  
 r 15 ins No. 24, 2005, r 10  
 amd Act No. 42, 2010, s 32  
 r 16 ins No. 24, 2005, r 10

## ENDNOTES

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- r 17            ins No. 24, 2005, r 10  
                  amd Act No. 42, 2010, s 32
- r 18            ins No. 24, 2005, r 10