

**NORTHERN TERRITORY OF AUSTRALIA**

**SUPERANNUATION REGULATIONS**

As in force at 1 July 2015

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 July 2015

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## SUPERANNUATION REGULATIONS

### Regulations under the *Superannuation Act*

#### 1 Citation

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

#### 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 his 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 him while he 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) where the member has not attained the age of 21 years – payable by reason of his:
      - (A) being married; or

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- (B) being required to perform duties or work of a kind normally performed by a person who has attained the age of 21 years; or
- (v) payable in respect of housing or quarters while he holds a particular office or performs particular duties or work (or an amount equal to the value of the rent free use of premises or quarters made available to him by reason of his holding a particular office or performing particular duties or work);
- (b) subject to subregulation (2), an allowance which is conditionally included in his contribution salary if payable that date, which is:
- (i) payable for his being in charge of staff, equipment or premises, or for particular administrative responsibilities, or by reason that he is required to perform a special function as part of his duties or work; or
- (ii) payable as compensation for the physical hardship or discomfort associated with the duties or work he is required to perform; or
- (iii) payable by reason that he is liable to be called upon at any time during which he 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 his salary or wages as is payable under the terms and conditions of his employment, solely by reason of his 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 he temporarily performs the whole or part of the duties of an office of higher classification than the classification of the office occupied by him; or
- (vii) an industry allowance payable to him.
- (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

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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) – his contribution salary, as determined at his entry date or annual review date, shall be 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) – his contribution salary, as determined at his entry date or annual review date, shall be taken to include the amount paid or due to him 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 shall be regarded as a shift allowance.

## **6 Trustee Board common seal**

- (1) The Commissioner must keep the common seal in safe custody.
- (2) The common seal must not be affixed to a document unless the Trustee Board has resolved that the common seal be affixed to the document.
- (3) A resolution for subregulation (2) may relate to a specific document or a class of documents.
- (4) The common seal must be affixed to a document:
  - (a) by a member of the Trustee Board; and
  - (b) in the presence of the Commissioner.
- (5) The Trustee Board member and Commissioner must both sign the document under or near the affixed seal.
- (6) In this regulation:

**common seal** means the common seal of the Trustee Board mentioned in section 8A(2)(b) of the Act.

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## 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 96 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 96 relates to release of excess concessional contributions. 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.
- (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.

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(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' Superannuation Fund 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*



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**ENDNOTES**
**1 KEY**

Key to abbreviations

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

**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) |

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**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

### 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.

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**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  
r 6 ins No. 9, 2011, r 4  
amd Act No. 15, 2012, s 10  
r 7 ins Act No. 39, 2014, s 47  
r 8 ins Act No. 39, 2014, s 81  
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