

NORTHERN TERRITORY OF AUSTRALIA
LEGISLATIVE ASSEMBLY MEMBERS' SUPERANNUATION
CONTRIBUTIONS ACT 2004

Act No. 69 of 2004

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 69 of 2004

AN ACT

to provide for the making of superannuation contributions for certain members of the Legislative Assembly elected or re-elected after the commencement of this Act, and for other purposes

[Assented to 21 December 2004]
[Second reading 14 October 2004]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Legislative Assembly Members' Superannuation Contributions Act 2004*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Definitions

In this Act, unless the contrary intention appears –

"additional salary", of a member, means that part of the member's salary that is paid to the member, in addition to his or her basic salary, for –

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- (a) service in the Legislative Assembly as the Speaker, a Minister or the Leader of the Opposition; or
- (b) other service in a particular office, or in the performance of a particular function, in respect of which remuneration is payable under the *Remuneration Tribunal Act*;

"basic salary", of a member, means the basic salary payable to the member under section 9A of the *Remuneration Tribunal Act*;

"choice notice" means a notice under section 8 and includes a choice notice as varied under section 10;

"Clerk" means the Clerk of the Legislative Assembly;

"complying superannuation fund" has the meaning in section 4;

"contribution" means a contribution under section 6;

"contributions fund", of a member at a particular time, means –

- (a) if there is a choice notice given by the member in effect at that time – the fund specified in the notice; or
- (b) if paragraph (a) does not apply – the default fund at that time;

"default fund" means the default fund declared under section 13;

"fund" includes a scheme and an account;

"member" means a member of the Legislative Assembly referred to in section 5;

"month" means one of the 12 months of the year;

"RSA" has the same meaning as in the *Retirement Savings Accounts Act 1997* of the Commonwealth;

"self managed superannuation fund" has the same meaning as in the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

4. Complying superannuation funds

For this Act, a fund is a complying superannuation fund at a particular time if –

- (a) the fund is a complying superannuation fund for Part IX of the *Income Tax Assessment Act 1936* of the Commonwealth in relation to the year of income in which the time occurs; and
- (b) the fund is a superannuation fund within the meaning of section 6(1) of the *Income Tax Assessment Act 1936* of the Commonwealth.

5. Application

This Act applies in relation to a member of the Legislative Assembly –

- (a) who is first elected after the commencement of this Act; or
- (b) who is re-elected after that commencement and, before that commencement –
 - (i) was receiving, or was entitled to receive, a pension under the *Legislative Assembly Members' Superannuation Act*; or
 - (ii) had received, or was entitled to receive, a payment under section 21 of that Act.

PART 2 – SUPERANNUATION CONTRIBUTIONS FOR MEMBERS

Division 1 – Territory's obligation to make contributions

6. Contributions to contributions fund

(1) The Territory must, in respect of each month, make a contribution for a member to the member's contributions fund.

(2) Subject to subsection (3), the contribution is an amount equal to the greater of –

- (a) 9% of the sum of –
 - (i) the member's basic salary for the month; and
 - (ii) the member's additional salary for the month; or
- (b) the minimum amount necessary to avoid a superannuation guarantee shortfall within the meaning of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

(3) For subsection (2), any reduction of the member's basic salary or additional salary because of salary sacrifice under section 14 must be disregarded.

(4) Despite subsection (1), the Territory is not required to pay contributions to the member's contributions fund if, under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth (including regulations under that Act), the contribution fund is not permitted to receive those contributions.

Division 2 – Choice of contributions fund

7. Member may choose fund

(1) A member may choose a fund to which contributions for the member are made.

(2) At the time the choice is made, the fund must be –

- (a) a complying superannuation fund other than a self managed superannuation fund; or
- (b) an RSA.

(3) At any particular time, there can only be one fund chosen by the member.

8. How to choose fund

(1) The member may only choose a fund by notice in writing given to the Clerk.

(2) The notice must –

- (a) specify the name of, and contact details for, the fund;
- (b) specify the date on which the notice takes effect, which cannot be earlier than the date on which the notice is given;
- (c) contain any other information prescribed by regulation; and
- (d) be accompanied by evidence that the fund will accept contributions.

9. Duration of choice

The member's choice of fund takes effect on the date specified in the choice notice and remains in effect until whichever of the following occurs first:

- (a) the contribution for the member in respect of the month in which he or she ceases to be a member is paid;

- (b) the choice notice is revoked under section 11;
- (c) the fund ceases to exist;
- (d) the fund ceases to accept contributions;
- (e) the fund ceases to be a complying superannuation fund or an RSA;
- (f) the fund becomes a self managed superannuation fund.

10. Variation of choice

(1) The member may vary the choice notice by notice in writing given to the Clerk.

(2) The only variations permitted are –

(a) to change the fund to another fund that is, at the time the notice of variation is given –

(i) a complying superannuation fund other than a self managed superannuation fund; or

(ii) an RSA; or

(b) to change the date on which the choice notice takes effect to a later date (but only if the choice notice has not already taken effect).

(3) The notice of variation must specify the date on which the variation takes effect, which cannot be earlier than the date on which the notice of variation is given.

(4) If the variation is to change the fund to another fund, the notice of variation must –

(a) specify the name of, and contact details for, the new fund; and

(b) be accompanied by evidence that the fund will accept contributions.

(5) The variation takes effect on the date specified in the notice of variation.

11. Revocation of choice

(1) The member may revoke the choice notice by notice in writing given to the Clerk.

(2) The notice of revocation must specify the date on which the revocation takes effect, which cannot be earlier than the date on which the notice of revocation is given.

(3) The revocation takes effect on the date specified in the notice of revocation.

12. Clerk to notify member of right to choose fund

Within 28 days after a member is elected or re-elected, the Clerk must give the member a written notice containing the following:

- (a) a statement that the member may choose a complying superannuation fund (other than a self managed superannuation fund) or an RSA as the fund to which contributions for the member will be made;
- (b) a statement that, if the member does not choose a fund, each contribution will be paid into the fund that is the default fund at the time of payment;
- (c) any other information prescribed by regulation.

Division 3 – Default contributions fund

13. Declaration of default fund

(1) The Minister may, by notice in writing, declare a fund to be the default fund for the purposes of this Act.

(2) At the time the declaration is made, the fund must be a complying superannuation fund other than a self managed superannuation fund.

(3) The declaration must specify the date on which it takes effect, which may be the date the declaration is made or an earlier or later date.

(4) The Minister must make a declaration under subsection (1) as soon as practicable after the commencement of this Act.

(5) The Minister may, by notice in writing, revoke a declaration under subsection (1).

(6) The notice of revocation must specify the date on which the revocation takes effect, which may be the date the notice of revocation is made or an earlier or later date.

(7) If the Minister revokes a declaration under subsection (5), the Minister must make another declaration under subsection (1), which must take effect immediately after the revocation takes effect.

- (8) At any particular time, there can only be one default fund.

PART 3 – MISCELLANEOUS

14. Salary sacrifice

(1) A member may salary sacrifice not more than the prescribed percentage of –

- (a) the member's basic salary;
- (b) the member's additional salary; or
- (c) the sum of those amounts.

(2) The Regulations may provide for salary sacrifice by members.

(3) In subsection (1) –

"prescribed percentage" means –

- (a) 50%; or
- (b) if another percentage is prescribed by regulation – that percentage.

15. Appropriation

Contributions payable under section 6 are to be paid from the public moneys of the Territory and the Allocation for that purpose is established or increased to the extent necessary.

16. Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters –

- (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
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