

NORTHERN TERRITORY OF AUSTRALIA
SUPERANNUATION AMENDMENT ACT 2003

Act No. 7 of 2003

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 7 of 2003

AN ACT

to amend the *Superannuation Act*

[Assented to 18 March 2003]

[Second reading 27 November 2002]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Superannuation Amendment Act 2003*.

2. Commencement

This Act comes into operation, or is taken to have come into operation, on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Superannuation Act* is in this Act referred to as the Principal Act.

4. Interpretation

Section 3 of the Principal Act is amended by omitting from subsection (1) the definition of "dependant" and substituting the following:

" 'dependant', in relation to an eligible employee, former eligible employee or person with an account in the Fund, means –

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- (a) a spouse, widow, widower, child, adopted child or ex-nuptial child of the eligible employee, former eligible employee or person with an account in the Fund; or
- (b) a person who, in the opinion of the Commissioner –
 - (i) is at the relevant date (or in the case of a deceased person was at his or her death) wholly or partially dependent on the eligible employee, former eligible employee or person with an account in the Fund; or
 - (ii) has or had at the relevant date a legal right to look to the eligible employee, former eligible employee or person with an account in the Fund for support;"

5. Payment without grant of probate etc.

Section 33 of the Principal Act is amended by omitting from subsections (1), (1)(c), (2)(c), (2A) and (3) "or former eligible employee" and substituting ", former eligible employee or person who has an account in the Fund".

6. Payment where beneficiary incapable

Section 34 of the Principal Act is amended by omitting from subsection (1) "or former eligible employee" and substituting ", former eligible employee or person who has an account in the Fund".

7. New Divisions

The Principal Act is amended by inserting after section 45 in Part III the following:

"Division 3 – Spouse accounts

"45A. Accounts for spouses

"(1) The Commissioner may, at the request of an eligible employee or a former eligible employee, establish and maintain a separate account in the accounts of the Fund for the employee's spouse.

"(2) The Fund may accept for payment into an account established under subsection (1) –

- (a) a contribution that is credited to the account; and
- (b) an amount received from another approved superannuation scheme or approved source for payment into the Fund that is credited to the account.

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"(3) An account established under subsection (1) is subject to the Rules.

"(4) The Commissioner is to keep records of –

- (a) all moneys deposited into an account established under subsection (1); and
- (b) all interest that has accumulated in relation to moneys deposited in the account.

"(5) Interest is payable to an account established under subsection (1) –

- (a) at the rate determined from time to time by the Commissioner; and
- (b) from the date on which the interest became due and payable to the account.

"(6) An amount credited to the account of a person established under subsection (1) is not taken to be an entitlement to an employer-financed benefit for the purposes of Part 3.

"Division 4 – Splitting of superannuation under Family Law Act

"45B. Definitions

"In this Division, unless the contrary intention appears –

'Family Law Act' means the *Family Law Act 1975* of the Commonwealth and includes regulations made under that Act;

'member spouse', in relation to a superannuation interest, means the person who is the member spouse in relation to that interest under Part VIIIIB of the Family Law Act;

'non-member spouse', in relation to a superannuation interest, means the person who is the non-member spouse in relation to that interest under Part VIIIIB of the Family Law Act;

'splitting instrument' means a superannuation agreement, a flag lifting agreement that provides for a payment split, or a splitting order, each within the meaning of Part VIIIIB of the Family Law Act;

'superannuation interest' means an interest that a person has under this Act.

"45C. Scheme to comply with Family Law Act provisions in relation to superannuation

"(1) This section applies despite any other provision of this Act.

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"(2) This Act is to be administered in accordance with the provisions of the Family Law Act relating to superannuation.

"(3) Subject to the provisions of the Family Law Act relating to superannuation, this Act is to be administered in relation to a person in accordance with the provisions of a splitting instrument, if any, that applies in relation to the person.

"(4) The Commissioner may prepare written administrative instructions that are necessary or convenient to give effect to –

- (a) the provisions of the Family Law Act relating to superannuation;
- (b) splitting instruments; and
- (c) Acts of the Commonwealth relating to superannuation and regulations under those Acts.

"(5) Without limiting the generality of subsection (4), administrative instructions for the purposes of that subsection may include, but are not limited to, the following:

- (a) the methods of calculating and paying a superannuation interest to member spouses and non-member spouses, including calculations that may reduce the superannuation interest of a member spouse;
- (b) the establishing of interests and accounts for non-member spouses under section 45D.

"(6) An administrative instruction prepared under subsection (4) takes effect on the date specified in the instruction.

"(7) If a provision of this Act or the administrative instructions made under this section is inconsistent with –

- (a) a provision of the Family Law Act relating to superannuation; or
- (b) a splitting instrument,

the provision of this Act or the administrative instructions is taken to have been complied with if the provision of the Family Law Act or a splitting instrument, as the case may be, has been complied with.

"(8) If a provision of the Rules is inconsistent with a provision of the administrative instructions prepared under this section, the provision of the administrative instructions prevails to the extent of the inconsistency.

"45D. Superannuation accounts for non-member spouses

"(1) The Commissioner may, for the purposes of the administration of an amount to which a person is entitled as a non-member spouse for the purposes of this Act, another Act of the Territory or an approved scheme, at the request of the person, establish and maintain a separate account in the accounts of the Fund for the person.

"(2) The Fund may accept for payment into an account established under subsection (1) –

- (a) an amount to which the person for whom the account is established is entitled under the provisions of the Family Law Act relating to superannuation;
- (b) a contribution; and
- (c) an amount received from another approved superannuation scheme or source for payment into the Fund to the credit of the account.

"(3) An account established under subsection (1) is subject to the Rules.

"(4) The Commissioner must keep records of –

- (a) all moneys deposited into an account established under subsection (1); and
- (b) all payments of interest to the account.

"(5) Interest is payable to an account established under subsection (1) –

- (a) at the rate determined from time to time by the Commissioner; and
- (b) from the date on which the interest became due and payable to the account.

"(6) An amount credited to the account of a non-member spouse established under subsection (1) is not taken to be an entitlement to an employer-financed benefit for the purposes of Part 3."

8. New section

The Principal Act is amended by inserting after section 50 the following:

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"50A. Commissioner may charge fees for additional services

"The Commissioner may charge a person the reasonable cost of performing on behalf of the person a service in relation to this Act that the Commissioner undertakes at the request of the person."
