

NORTHERN TERRITORY OF AUSTRALIA  
SUPERANNUATION LAW REFORM ACT 2007

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Act No. 36 of 2007

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# NORTHERN TERRITORY OF AUSTRALIA

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Act No. 36 of 2007

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Act to establish a superannuation scheme providing benefits on death or invalidity; to make other reforms to superannuation law; to amend the *Superannuation Act* and the *Legislative Assembly Members' Superannuation Fund Act*, and for other purposes

[Assented to 12 December 2007]  
[Second reading 11 October 2007]

The Legislative Assembly of the Northern Territory enacts as follows:

## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Superannuation Law Reform Act 2007*.

### 2 Commencement

This Act commences on the date fixed by the Administrator by *Gazette* notice.

## Part 2 Amendment of *Superannuation Act*

### 3 Act amended

This Part amends the *Superannuation Act*.

**4 Repeal and substitution of long title**

Long title

*repeal, substitute*

An Act to provide for the administration of the (closed) Northern Territory Government and Public Authorities' Superannuation Scheme and for the establishment and administration of the Northern Territory Government Death and Invalidity Scheme, and for related purposes.

**5 Amendment of Part I heading**

Part I, heading

*omit*

**PART I**

*substitute*

**Part 1****6 Amendment of section 3 (Interpretation)****(1) Section 3(1)**

*omit*

In this Act, unless the contrary intention appears –

*substitute*

In this Act:

**(2) Section 3(1), definitions *accumulation account, Acting Chairperson, approved deposit, Chairperson, Commonwealth Act, dependant, Fund, Police Associations, public authority, Public Service, Rules, Scheme, spouse* and *Trades and Labor Council***

*omit*

**(3) Section 3(1)**

*insert (in alphabetical order)*

***accumulation account*** means an account kept in the name of a member or adherent of the NTGPAS Scheme of the amount in the Fund standing to the credit of the member or adherent.

**adherent**, of the NTGPAS Scheme, means a person who is not an eligible employee (and hence not a member of that Scheme) but in whose name an accumulation account exists in the Fund.

**allocated pension** means:

- (a) a pension that complies with the requirements for an allocated pension under relevant Commonwealth laws regulating the payment of superannuation benefits; or
- (b) any other form of periodic payment of superannuation benefits (however described) recognised as permissible under relevant Commonwealth laws regulating the payment of superannuation benefits.

**approved deposit** means an amount accepted by the Commissioner for deposit to the credit of an accumulation account (and may include an amount rolled over from another superannuation fund).

**Chair**, of a Board, includes an Acting Chair while acting in the place of the Chair.

**dependant**, of another person, means:

- (a) a spouse, widow, widower or child of the other person; or
- (b) a person who, in the Commissioner's opinion:
  - (i) was, at the date of the other person's death, wholly or partially dependent on the other person; or
  - (ii) had, at the date of the other person's death, a legal right to look to the other person for support.

**exempt public sector superannuation scheme**, see section 10 of the *Superannuation Industry (Supervision) Act 1993* (Cth).

**Fund** means the Northern Territory Government and Public Authorities Employees' Superannuation Fund.

**NTGDI Scheme** means the Northern Territory Government Death and Invalidity Scheme.

**NTGPAS Scheme** means the Northern Territory Government and Public Authorities' Superannuation Scheme.

**Police Association** means The Northern Territory Police Association Incorporated.

**public authority** means:

- (a) an Agency; or
- (b) an authority or body classified by the regulations as a public authority.

**Rules** means the *Northern Territory Government and Public Authorities' Superannuation Scheme Rules*.

**Scheme** means (according to context):

- (a) the NTGPAS Scheme; or
- (b) the NTGDI Scheme.

**spouse** includes a de facto partner.

**Unions NT** means the Northern Territory Trades and Labor Council Incorporated trading as Unions NT.

- (4) Section 3(1), definition **eligible employee**, paragraph (b)(i)

*omit, substitute*

- (i) the NTGPAS Scheme; or

## **7 Repeal and substitution of section 3A**

Section 3A

*repeal, substitute*

## **3A Schemes to be administered in accordance with agreements with the Commonwealth**

The NTGPAS Scheme and the NTGDI Scheme are to be administered in accordance with a written agreement entered into by the Territory and the Commonwealth relating to exempt public sector superannuation schemes.

## **8 Amendment of Part II heading**

Part II, heading

*omit*

## **PART II**

*substitute*

## **Part 2**

### **9 Amendment of section 9 (Superannuation Review Board)**

Section 9(2) and (3)

*omit, substitute*

- (2) The Review Board consists of:
  - (a) the Chair; and
  - (b) 3 other residents of the Territory appointed by the Minister.
- (3) The membership of the Review Board must include:
  - (a) a nominee of Unions NT (the **Unions NT nominee**), who must be a member of a union drawing its membership wholly or substantially from public employees; and
  - (b) a nominee of the Police Association (the **Police Association nominee**).
- (4) The Police Association nominee alternates as a member of the Review Board with the Union NT nominee as follows:
  - (a) the Police Association nominee sits as a member when the Review Board:
    - (i) is conducting a review under Part 4 concerning a member of the Police Force; or
    - (ii) is considering a proposed amendment to the Rules that has, in the opinion of the Chair, particular significance for members of the Police Force; and
  - (b) on other occasions the Unions NT nominee sits as a member of the Review Board (to the exclusion of the Police Association nominee).

### **10 Amendment of section 10 (Functions and powers of Review Board)**

Section 10(1)(a)

*omit, substitute*

- (a) to review, in accordance with Part 5, a decision or action of the Commissioner, or the Commissioner's failure to make a



decision or to act; and

**11 Amendment of section 11 (Superannuation Investment Board)**

Section 11(2)

*omit, substitute*

- (2) The Investment Board consists of:
- (a) the Chair; and
  - (b) 2 other residents of the Territory appointed by the Minister.
- (3) The membership of the Investment Board must include a nominee of Unions NT (who must be a member of a union drawing its membership wholly or substantially from public employees).

**12 Amendment of section 12 (Functions and powers of Investment Board)**

(1) Section 12(4)(c)

*omit, substitute*

(c) to ensure the sound management of the assets of the Fund;  
and

(2) Section 12(4)(e), (f) and (g)

*omit, substitute*

(e) to determine, authorise or approve policies, programs and strategies for the investment of the Fund that are consistent with the need to ensure an adequate spread of investments and provide for investor choice.

(3) Section 12(4)(a), (b) and (d), at the end

*insert*

and

**13 Repeal and substitution of sections 13 to 17**

Sections 13 to 17

*repeal, substitute*

**13 Definition**

In this Division:

***member*** means a member of a Board and includes:

- (a) the Chair or an Acting Chair; and
- (b) an alternate member.

**14 Nomination of members**

(1) If:

- (a) the Minister asks Unions NT, in writing, to nominate a suitable person for appointment to a Board; and
- (b) Unions NT fails to nominate a person, qualified for appointment, within 28 days of the date of the request;

the Minister may appoint a resident of the Territory to the Board in place of the nominee.

(2) If:

- (a) the Minister asks the Police Association, in writing, to nominate a suitable person for appointment to a Board; and
- (b) the Police Association fails to nominate a person, qualified for appointment, within 28 days of the date of the request;

the Minister may appoint a resident of the Territory to the Board in place of the nominee.

(3) A person appointed under this section is taken to be a nominee of Unions NT or the Police Association (as the case requires).

**15 Alternate members**

- (1) The Minister may appoint a person as an alternate member for a member of a Board (other than the Chair).
- (2) If a member of a Board is unable or unavailable to act, the member's alternate may act in place of that member.

- (3) If the Minister proposes to appoint an alternate member for a member nominated by Unions NT or the Police Association, the Minister must follow the procedures applicable to the appointment of the principal member.
- (4) When a member of a Board is appointed, an alternate member should (wherever practicable) be appointed at the same time.

## **16 Chair and Acting Chair**

- (1) The Minister must consult with Unions NT before appointing a person as the Chair of a Board.
- (2) The Minister may, after consultation with Unions NT, appoint a person as the Acting Chair of a Board.
- (3) The Acting Chair of a Board may, when there is a vacancy in the office of the Chair, or the Chair is unable or unavailable to act, act as the Chair of the Board.
- (4) When the Chair of a Board is appointed, an Acting Chair should (wherever practicable) be appointed at the same time.

## **17 Term of appointment**

- (1) The Chair or another member of a Board will be appointed for a term of 5 years.
- (2) The term of appointment for an Acting Chair or an alternate member ends:
  - (a) if the Chair or principal member is re-appointed – when the re-appointment takes effect (unless the Acting Chair or alternate member is also re-appointed for a further term); or
  - (b) if the Chair or principal member ceases to hold office (either prematurely or at the end of a term of appointment) – when the appointment of a successor to the Chair or principal member takes effect (unless the Acting Chair or alternate member is then re-appointed for a further term).

## **14 Amendment of section 21 (Disclosure of interest)**

Section 21(1)

*omit, substitute*

- (1) A member who has a direct or indirect monetary interest in a matter before the Board must, as soon as practicable, disclose the interest at a meeting of the Board.

Exception:

Disclosure of the following interests is not required:

- (a) an interest as a member or adherent of the NTGPAS Scheme;
- (b) an interest as a member of the NTGDI Scheme;
- (c) an interest shared in common with at least 25 other people.

## **15 Repeal and substitution of section 22**

Section 22

*repeal, substitute*

## **22 Meetings of Board**

- (1) The Chair of a Board may at any time, and must if requested by a member, convene a meeting of the Board.
- (2) A meeting to be convened at the request of a member must be held on a date requested by the member (which cannot be earlier than 7 days after the date of the request) or as soon as practicable after that date.
- (3) The Chair of a Board, if present at a meeting of the Board, must preside at the meeting.
- (4) In the absence of the Chair, the Acting Chair must preside.
- (5) At a meeting of a Board:
  - (a) the Chair or Acting Chair and 2 other members constitute a quorum; and
  - (b) questions arising for decision are to be decided by majority vote; and
  - (c) the Board will determine its own procedure.
- (6) A Board must keep records of its proceedings.

## **16 Amendment of Part III heading**

Part III, heading

*omit*

**PART III**

*substitute*

**Part 3**

**17 New section 25A**

Before section 26, in Part 3, Division 1

*insert*

**25A References to the Scheme**

In this Part, references to the **Scheme** are references to the NTGPAS Scheme.

**18 Repeal of section 27**

Section 27

*repeal*

**19 Repeal and substitution of section 28**

Section 28

*repeal, substitute*

**28 Records of accumulation accounts**

The Commissioner must keep records of:

- (a) contributions and approved deposits to each accumulation account in the Fund; and
- (b) the return on the account.

**20 Amendment of section 29 (Payment of benefits)**

Section 29(2)(b)

*omit, substitute*

- (b) to the extent those moneys are inadequate – the Territory's public account (which is appropriated to the necessary extent).

**21 Repeal and substitution of sections 31 to 35**

Sections 31 to 35

*repeal, substitute*

**31 Allocated pensions**

The Commissioner may, at the request of a person in whose name an accumulation account is held in the Fund, pay a benefit to which the person is entitled from the Fund in the form of an allocated pension.

**22 Amendment of section 39 (Fund accounts)**

Section 39(2)(b)(iii)

*omit, substitute*

- (iii) unclaimed benefits payable under the Scheme into the Territory's public account.

**23 Repeal and substitution of section 41**

Section 41

*repeal, substitute*

**41 Investor choice**

- (1) The Commissioner may, with the Investment Board's approval, offer members and adherents of the Scheme a choice between various investment options approved by the Investment Board.
- (2) When the Commissioner offers investment options, one of the options is to be designated as the default option.
- (3) A member or adherent of the Scheme may choose a particular investment option, or change from one investment option to another, by giving the Commissioner a notice in the approved form.
- (4) A member or adherent who has not made a choice between investment options is taken to have chosen the default option until a choice to change from that option is made.
- (5) The money standing to the credit of the accumulation account of a member or adherent is to be allocated to investments of a class determined by the Commissioner to be appropriate to the investment option chosen, or taken to have been chosen, by the member or adherent.

- (6) The Commissioner may charge an administration fee fixed by the Commissioner against an accumulation account when the member or adherent changes from one investment option to another.

#### **41A Return on accumulation accounts**

- (1) The Commissioner:
- (a) must, as soon as practicable after the end of each financial year, publish a notice (a ***final investment return notice***) showing the net rate of return (which may be positive, neutral or negative) for the financial year on the investments corresponding to each investment option; and
  - (b) may at other times, as the Commissioner considers appropriate, publish a notice (an ***interim investment return notice***) showing the rate of return (which may be positive, neutral or negative) for part of a financial year.
- (2) An investment return notice is to be published as follows:
- (a) a final investment return notice is to be published in the *Gazette* and in any other way the Commissioner considers appropriate;
  - (b) an interim investment return notice is to be published in any way the Commissioner considers appropriate.
- (3) On publication of the final investment return notice for a financial year, each accumulation account will be credited (or debited), as at the end of the financial year, with an investment return at the rate appropriate to the investment option chosen, or taken to have been chosen, by the member or adherent in whose name the account is established.
- (4) If the balance standing to the credit of an accumulation account is to be rolled over into another superannuation fund, or paid out for some other reason, during the course of a financial year, the Commissioner will, having regard to any relevant interim investment return notice and other relevant information available to the Commissioner, determine an interim rate of return for the relevant investment option to the date of the rollover or payout, and adjust the final balance of the account accordingly.
- (5) If, after the publication of an interim or final investment return notice under this section, it appears that an error was made in determining the rate of return for one or more investment options, the Commissioner may:
- (a) publish a fresh notice in the *Gazette* correcting the error; and

- (b) make consequential adjustments (if required) increasing or reducing the balances of accumulation accounts.

**24 Amendment of section 42 (Recovery of money owing to fund or Territory)**

- (1) Section 42, heading

*omit*

**or Territory**

- (2) Section 42(4)

*omit*

**25 Amendment of section 43 (Annual reports and audit)**

Section 43(2) and (3)

*omit, substitute*

- (2) The Investment Board must, within 3 months after the end of each financial year, forward the financial statement for the financial year to the Auditor-General.
- (3) The Auditor-General must, within 3 months after receiving the statement, or a longer period allowed by the Administrator, audit the statement and report on the audit to the Investment Board and the Minister.
- (4) The Minister must table the reports, together with the financial statement and the Auditor-General's report on the audit, in the Legislative Assembly within 6 sitting days after the Minister receives the last of the reports.

**26 Repeal of section 45**

Section 45

*repeal*

**27 Amendment of section 45A (Accounts for spouses)**

- (1) Section 45A(2)(b)

*omit, substitute*

- (b) an approved deposit.



(2) Section 45A(4) and (5)

*omit*

**28 Amendment of section 45D (Superannuation accounts for non-member spouses)**

(1) Section 45D(2)(c)

*omit, substitute*

(c) an approved deposit.

(2) Section 45D(4) and (5)

*omit*

**29 New Parts 4 and 5**

After section 45D

*insert*

**Part 4 Northern Territory Government Death and Invalidity Scheme**

**Division 1 Preliminary**

**45E Definitions**

(1) In this Part:

***approved allowances*** means allowances or entitlements that are, by determination of the Commissioner under subsection (2), to be taken into account in determining the member's benefit salary.

***benefit salary*** means:

(a) for a member employed under an Executive Contract of Employment –

(i) in the case of a member employed on a full-time basis – the member's notional salary (as defined in the contract) as at the member's exit date or such other amount as may be determined by the Commissioner; or

(ii) in the case of a member employed on a part-time basis – the full-time equivalent of the member's notional salary (as defined in the contract) as at the member's

exit date or such other amount as may be determined by the Commissioner; or

- (b) for a member employed in the Police Force (other than a police auxiliary or a person employed under an Executive Contract of Employment) – an amount calculated as follows:

$$BS = 1.3S + A$$

where:

BS is the amount to be ascertained; and

S is:

- (i) for a member employed on a full-time basis immediately before the member's exit date, the member's salary (exclusive of approved allowances) as at the member's exit date as certified by the member's employer and accepted by the Commissioner; or
- (ii) for a member employed on a part-time basis immediately before the member's exit date – the full-time equivalent of the member's salary (exclusive of approved allowances) as at the member's exit date as certified by the member's employer and accepted by the Commissioner; and

A is the amount of the member's approved allowances immediately before the member's exit date as certified by the member's employer and accepted by the Commissioner; or

- (c) for any other employee member – the member's actual salary, or in the case of a part-time employee, the full-time equivalent of the member's salary, as at the member's exit date, as certified by the member's employer and accepted by the Commissioner; or
- (d) for a parliamentary member – the member's basic salary as a Member of the Legislative Assembly as at the member's exit date plus any additional salary to which the member was then entitled for a ministerial or parliamentary office as certified by the Clerk of the Legislative Assembly and accepted by the Commissioner.

**death benefit**, see section 45P.

**employee member** means a member who is a permanent employee.

**employment** means:

- (a) service as a permanent employee under a contract of service or in a statutory or other public office; or
- (b) service as a Member of the Legislative Assembly.

**entry date**, see section 45H(3).

**exit date** means the date on which a person ceases to be a member of the Scheme.

**invalidity retirement** means retirement on the ground of invalidity (see section 45F).

**invalidity retirement benefit**, see section 45Q.

**medical condition** means a physical or mental condition (or combination of conditions) that could increase a person's risk of death or invalidity.

**member** means a member of the Scheme.

**nominal retirement age**, for a member, means the age of 65 years, or if retirement is compulsory at a younger age, the age at which retirement becomes compulsory.

**NTGDIS benefit**, see section 45N.

**parliamentary member** means a member who is a Member of the Legislative Assembly.

**part-time member** means a member who is, immediately before the member's exit date, in part-time employment.

**part-time ratio**, for a part-time member, means the quotient obtained:

- (a) by dividing the member's actual hours of work immediately before the member's exit date by the number of hours of work that would constitute full-time employment; or
- (b) on some other basis (which may involve estimation or supposition) the Commissioner considers fair to the member in the circumstances.

**reduced benefit classification** means a classification assigned, or taken to have been assigned under section 45K.

**reduced benefit classification adjustment factor**, see section 45L.

**salary** includes approved allowances.

**Scheme** means the NTGDI Scheme.

**workers' compensation agreement** means an agreement 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.
- (2) The Commissioner may determine, in relation to a particular class of members, that allowances of a particular kind are to be taken into account, in a particular way, for calculating the benefit salary of a member of the relevant class.

*Examples*

- 1 *The Commissioner might determine that allowances of a particular kind are to be taken into account as if they formed part of the salary of members of a particular class.*
- 2 *The Commissioner might determine for members employed in the Police Force (other than a police auxiliary or person employed under an Executive Contract of Employment) that an allowance of a particular kind is to be taken into account for the purposes of the relevant formula in the definition of **benefit salary**.*

#### **45F      Invalidity retirement**

- (1) A member of the Scheme retires from employment on the ground of invalidity if, and only if:
  - (a) the member is involuntarily retired from employment with the Commissioner's approval under section 50; or
  - (b) the member resigns or retires from employment (voluntarily or involuntarily) and the Commissioner approves the payment of an invalidity retirement benefit; or
  - (c) the member's employment terminates or is terminated and the Commissioner approves the payment of an invalidity retirement benefit.
- (2) The Commissioner may only give an approval under subsection (1) if the Commissioner makes an assessment, after considering medical and other relevant evidence, that the member has (or had) become, by the date of resignation, retirement or termination of

employment, physically or mentally so incapacitated that the member is (or was) unfit for any available employment (on a full-time or part-time basis) for which the member is reasonably qualified by education, training or experience.

- (3) In considering whether suitable employment is available to a member, the Commissioner will have regard only to employment available from employers whose employees are covered by the Scheme.

## **Division 2      Establishment and membership of the Northern Territory Government Death and Invalidity Scheme**

### **45G      Establishment of the Scheme**

The Northern Territory Government Death and Invalidity Scheme is established.

### **45H      Membership of Scheme**

- (1) A person is a member of the Scheme if both of the following conditions are satisfied:
- (a) the person:
    - (i) is a permanent employee employed in a full-time or part-time capacity under the *Public Sector Employment and Management Act* or as a member of the Police Force; or
    - (ii) is employed in the public sector under an Executive Contract of Employment;
  - (b) the person is not an eligible employee (and hence is not a member of the NTGPAS Scheme).

*Note*

*This means that a permanent employee's last period of continuous employment must have commenced after 9 August 1999.*

- (2) Members of the Legislative Assembly elected for the first time at the general election held on 18 June 2005 or a later general election or by-election are also members of the Scheme.
- (3) If a person:
- (a) becomes a member of the Scheme on the commencement of this Part; but
  - (b) would have become a member of the Scheme on an earlier

date if this Part had then been in force;

the member's entry date to the Scheme is taken to be the earlier date.

### **Division 3      Medical classification**

#### **45J      Medical classification on entry**

- (1) A member must complete and submit to the Commissioner a medical declaration in the approved form on, or as soon as practicable after, the member's entry date.

Exceptions:

- 1 A member whose entry date falls before 1 July 2007 is not obliged to submit a medical declaration (but may do so).
  - 2 A member need not submit a medical declaration if the Commissioner accepts a medical classification or status that applies or applied to the member under another superannuation scheme or for purposes of the same or other public sector employment (in the Territory or elsewhere).
- (2) The Commissioner may, as soon as practicable after receiving a completed medical declaration form, require the member:
- (a) to provide further medical information; or
  - (b) to undergo a medical examination or examinations by an approved medical practitioner.

#### **45K      Reduced benefit classification**

- (1) The Commissioner may, after receiving medical advice, issue a reduced benefit classification certificate for a member if the Commissioner is of the opinion that the member has a significant risk of death or invalidity retirement in the first 10 years of membership because of a medical condition existing on the member's entry date.
- (2) If the Commissioner accepts a medical classification or status that applies or applied to the member under another superannuation scheme or for the purposes of public sector employment in the Territory or elsewhere (the ***accepted classification***), the Commissioner must assign a reduced benefit classification to the member conforming with the accepted classification unless the accepted classification indicates no significant risk to the member's health.

- (3) A reduced benefit classification certificate must specify the medical conditions to which the certificate relates.
- (4) When the Commissioner issues a reduced benefit classification certificate for a member, the Commissioner must give the member written notice of the reasons for issuing the certificate.
- (5) If a member who is required under this Division to complete and submit a medical declaration form to the Commissioner, to provide further medical information, or to undergo a medical examination or examinations, fails to comply with any such requirement, a reduced benefit classification certificate is taken to have been issued by the Commissioner in respect of any medical condition that may have existed at the member's entry date and gives rise to a claim under the Scheme within the 10 years after the entry date.

#### **45L Reduced benefit in certain cases**

- (1) A reduction of a death or invalidity retirement benefit is to be made under this section if:
  - (a) a reduced benefit classification certificate has been issued (or is taken to have been issued) for a member; and
  - (b) an entitlement to a benefit under the Scheme arises within the first 10 years after the member's entry date; and
  - (c) the entitlement arises for reasons directly attributable to a medical condition to which the certificate (or presumptive certificate) relates.
- (2) A reduction of an invalidity retirement benefit is also to be made under this section if:
  - (a) an entitlement to an invalidity retirement benefit arises within the first 10 years after the member's entry date; and
  - (b) the entitlement arises for reasons directly attributable to a medical condition; and
  - (c) the Commissioner has reasonable grounds for believing that:
    - (i) the condition existed on the member's entry date; and
    - (ii) the condition was known to the member at the entry date but was not disclosed by the member; and
  - (d) the condition, if disclosed to the Commissioner would have resulted in the issue of a reduced benefit classification certificate.

- (3) The extent of a reduction of benefit under this section is indicated by a reduced benefit classification adjustment factor.
- (4) The reduced benefit classification adjustment factor is a fraction calculated by dividing the number of complete months between the member's entry date and exit date by 120.
- (5) The Commissioner may fix a greater fraction in a particular instance if satisfied that there is good reason to do so.

## **Division 4 Entitlements**

### **45M Entitlement to benefits under the Scheme**

A benefit is payable under the Scheme if:

- (a) a member dies leaving a dependant or dependants who survive the member; or
- (b) a member retires from employment on the ground of invalidity.

### **45N NTGDIS benefit**

- (1) The NTGDIS benefit is calculated in accordance with the following formula:

$$B = 17.5\% \times S \times Y \times P \times A$$

where:

B is the amount of the benefit; and

S is the member's benefit salary; and

Y is a multiplier based on the member's age, as at the member's exit date, in accordance with subsection (2); and

P is, for a part-time member, the member's part-time ratio and, for any other member, 1; and

A is, if the benefit is subject to reduction under Division 3, the reduced benefit classification adjustment factor and, in any other case, 1.

- (2) The age-based multiplier is determined as follows:
  - (a) if the member is, on the exit date, 60 years of age or above – the multiplier is zero;
  - (b) if the member is, on the exit date, 55 years of age or above



but less than 60 years of age – the multiplier is the number of years between the member's age at the exit date and 60 years (expressing a part of a year as a decimal fraction);

- (c) if the member is, on the exit date, 50 years of age or above but less than 55 years – the multiplier is the number of years between the member's age at the exit date and the member's nominal retirement age less the number of years between the exit date and the date on which the member attained 50 years of age (expressing a part of a year as a decimal fraction);
- (d) if the member is, on the exit date, less than 50 years of age – the multiplier is the number of years between the member's age on the exit date and the member's nominal retirement age (expressing a part of a year as a decimal fraction).

#### **45P Benefit payable on death**

- (1) If a member dies leaving a dependant or dependants, the NTGDIS benefit is payable to the estate of the deceased member.
- (2) However, if a benefit (a ***workers' compensation benefit***) is payable in respect of the member's death to a dependant or dependants of the deceased member under workers' compensation legislation or a workers' compensation agreement, the NTGDIS benefit is to be reduced by the amount of the workers' compensation benefit.
- (3) If a workers' compensation benefit consists of periodic payments, the amount of the benefit is taken to be the notional redemption value (as determined by an approved actuary) of the periodic payments.

#### **45Q Benefit payable on invalidity retirement**

- (1) If a member is entitled to a benefit on invalidity retirement, the NTGDIS benefit is payable to the member.
- (2) However, if a benefit (a ***workers' compensation benefit***) is payable to the member under workers' compensation legislation or a workers' compensation agreement, the NTGDIS benefit is to be reduced by the amount of the worker's compensation benefit.
- (3) If a workers' compensation benefit consists of periodic payments, the amount of the benefit is taken to be the notional redemption value (as determined by an approved actuary) of the periodic payments.

**45R Anticipatory payments**

- (1) If a member's salary is suspended or reduced because of the member's physical or mental incapacity, the Commissioner may, on application in the approved form by the member, authorise a payment or payments to the member to relieve financial hardship.
- (2) The Commissioner is not to authorise a payment to a member under this section unless:
  - (a) the member is currently undergoing assessment for invalidity retirement; or
  - (b) the Commissioner has assessed the member as substantially incapacitated for employment.
- (3) The amount paid to a member under this section cannot exceed:
  - (a) the amount necessary to make up relevant salary loss; or
  - (b) the amount that would be payable to the member on the assumption that the member's employment had terminated in circumstances entitling the member to an invalidity retirement benefit.
- (4) A payment cannot be made to a member under this section after the member's exit date.
- (5) If a benefit later becomes payable in respect of the member's death or invalidity, the benefit is to be reduced by the amount of any payment or payments made under subsection (1).
- (6) In subsection (3)(a):

**relevant salary loss** means the amount by which the member's loss of salary resulting from the physical or mental incapacity exceeds 20% of the salary that would have been earned apart from the incapacity.

**45S Source of payment**

- (1) The benefits payable under the Scheme to, or in relation to, a member or former member are to be paid out of the Territory's public account (which is appropriated to the necessary extent).
- (2) A public authority by which a member was employed for the whole, or any part, of the period of the member's membership of the Scheme is liable to reimburse the Territory for a fair proportion (to be determined by the Minister) of the amount paid from the public account to, or in relation to, the member or former member.

- (3) A public authority must, if the Minister requires:
  - (a) enter into an arrangement with the Territory for contributing, on a basis the Minister considers fair to the Territory, to the cost of paying benefits under the Scheme to, or in relation to, employees or former employees of the public authority; and
  - (b) make payments to the Territory in accordance with the arrangement.
- (4) The Minister may exempt a public authority from a liability under subsection (2).

## **Part 5                    Provisions of general application to both Schemes**

### **Division 1            Information**

#### **45T            Information to be provided by Commissioner**

- (1) A member or former member of either Scheme may ask the Commissioner for information about actual or prospective entitlements under the Scheme and for information relevant to the calculation of those entitlements.

*Example*

*A member of the NTGPAS Scheme might ask for a statement of the balance of the member's accumulation account or the member's surcharge debt account (or both) or for a statement of the number of annual benefit points to which the member is entitled.*

- (2) The Commissioner must, as soon as practicable after receiving a request under subsection (1), supply the information requested.

#### **45U            Information to be provided by member or employer**

- (1) A member of either Scheme must, if the Commissioner requires, provide the Commissioner with specified information relevant to the administration of the Scheme.

Maximum penalty:        20 penalty units

- (2) The employer of a member of either Scheme must, if the Commissioner requires, provide the Commissioner with specified information relevant to the administration of the Scheme.

Maximum penalty:        50 penalty units.

**Division 2          Benefits****45V          Discretionary benefits**

The Commissioner may, with the written approval of the Minister and the Review Board, approve a payment of a benefit for which no provision is made, or in addition to a benefit for which provision is made, in either Scheme.

**45W          Assignment, etc. of benefit**

- (1) A purported assignment of, or purported charge over, a benefit payable under either Scheme is void.
- (2) Where, but for this subsection, a benefit would pass by operation of law to a person other than a person to whom the benefit is payable under the Scheme, the benefit does not pass.

**45X          Payment without grant of probate etc.**

- (1) If a benefit is payable under either Scheme on death, and the benefit would, but for this section, be payable to the estate of the deceased, the Commissioner may, without production of probate of the will or letters of administration of the estate of the deceased, pay the benefit for one or more of the following purposes:
  - (a) towards the expenses of the deceased's funeral;
  - (b) to a dependant or dependants of the deceased;
  - (c) if the deceased left no dependant, but the Commissioner is satisfied that the deceased intended to benefit some other person – to the other person.
- (2) The amount the Commissioner may pay under subsection (1) is subject to a limit of \$20 000 or, if a higher limit is fixed by regulation, the higher limit.

Exception:

The Commissioner may make a payment in excess of the limit if the payment is made to a dependant who, in the Commissioner's opinion, requires the payment to alleviate financial hardship.

- (3) The receipt in writing of a person to whom a payment is made under subsection (1) discharges the Commissioner (and, if relevant, the Investment Board) from further liability for the portion of the benefit to which the payment relates.
- (4) If a benefit is payable to the estate of a deceased person, the

Commissioner may instead of paying the benefit to the legal personal representative of the deceased, pay the benefit to the Public Trustee.

- (5) The Public Trustee's receipt for the payment discharges the Commissioner (and, if relevant, the Investment Board) from further liability in respect of the benefit or the portion of the benefit that the payment represents.

#### **45Y Payment where beneficiary incapable**

- (1) If a person to whom a benefit under either Scheme is payable is, in the opinion of the Commissioner, incapable of administering the person's own affairs because of illness or imprisonment or for any other reason, the Commissioner may pay the benefit to the Public Trustee.
- (2) A payment made under subsection (1) is taken to have been made to the person entitled to the benefit.

#### **45Z Unclaimed benefits**

If a benefit is not claimed within 6 years after it became payable, the Commissioner may pay the benefit to the credit of the Territory's public account.

### **Division 3 Actuarial review**

#### **45ZA Actuarial review**

- (1) The Commissioner must have an actuarial review of both Schemes carried out as at 30 June 2010 or an earlier date directed by the Minister.
- (2) A further actuarial review is to be carried out at an interval of 3 years from the previous one or, if the Minister directs an earlier review, as directed by the Minister.
- (3) The Commissioner may engage an actuary to carry out a review.
- (4) The cost of engaging an actuary for the purposes of this section and the costs of the review are to be met by the Territory.

**30 Repeal and substitution of Part IV heading**

Part IV, heading

*repeal, substitute***Division 4 Claims for benefits and review of decisions****31 Amendment of section 46 (Claim for benefit under Scheme)**

Section 46(1) and (2)

*omit, substitute*

- (1) A person entitled, or claiming to be entitled, to a benefit under either Scheme may apply to the Commissioner, in the approved manner and form, for the payment of that benefit.
- (2) A person who could be affected by a decision or an action that the Commissioner is authorised or required to make or take under this Act may apply to the Commissioner, in the approved form, for the Commissioner to make the relevant decision or to take the relevant action.

**32 Repeal and substitution of Part V heading**

Part V, heading

*repeal, substitute***Division 5 Miscellaneous****33 Amendment of section 50 (Approval for retirement for invalidity)**

Section 50

*omit*

an eligible employee

*substitute*

a member of either Scheme

**34 Repeal and substitution of section 50A**

Section 50A

*repeal, substitute***50A Power to charge fees for service**

- (1) The Commissioner may charge fees for services provided at the request of a person.
- (2) If the person requesting the service has an accumulation account in the Fund, the Commissioner may charge the fee against the accumulation account.

*Examples*

- 1 *The Commissioner might charge a fee for changing the investment of an accumulation account from one investment option to another.*
  - 2 *The Commissioner might charge periodic fees against an accumulation account for paying a benefit, in the form of an allocated pension, from the account.*
- (3) The Commissioner may levy a general charge, on a basis the Commissioner considers appropriate, against accumulation accounts for providing incidental services (such as financial advice) for members and adherents of the NTGPAS Scheme.

**50B Power to recover money on behalf of the Territory**

If the Territory makes a payment to any person under either Scheme to which the person was not entitled, or in excess of the person's entitlement, the Commissioner may, on behalf of the Territory, recover the amount of the payment or the amount of the excess (as the case requires) as a debt.

**35 Repeal of sections 52 and 53**

Sections 52 and 53

*repeal***Part 3 Amendment of Legislative Assembly Members' Superannuation Fund Act****36 Act amended**

This Part amends the *Legislative Assembly Members' Superannuation Fund Act*.

**37 Amendment of section 3 (Definitions)**

Section 3, definition *member*

*omit, substitute*

*member* means a member of the Assembly who:

- (a) was elected before the scheme closure date; and
- (b) has been a member of the Assembly continuously since that date.

**38 Repeal and substitution of sections 4A and 4B**

Sections 4A and 4B

*repeal, substitute*

**4A Members' accumulation accounts**

- (1) The Trustees must keep a separate account in the accounts of the Fund for each member and each former member who retains an interest in the Fund.
- (2) The account must record:
  - (a) all contributions made by the member; and
  - (b) the return on the account for each financial year.

**4B Return on accumulation accounts**

- (1) The Trustees must, as soon as practicable after the end of each financial year, determine the rate of return (which may be positive, neutral or negative) on accumulation accounts for the financial year.
- (2) The return is to be credited (or debited) to accumulation accounts as at the end of the financial year.
- (3) If an accumulation account is to be closed during the course of a financial year, the Trustees must determine the rate of return (which may be positive, neutral or negative) on the accumulation account for the relevant part of the financial year.
- (4) The return is to be credited (or debited) to the relevant accumulation account as at the date of closure of the account.
- (5) A rate of return determined under this section must approximate, in the Trustees' opinion, the net rate of return on the investment of the Fund for the relevant period.



(6) When a member's accumulation account is credited (or debited) under this section, the Trustees must forward to the member a statement showing:

- (a) the amount standing to the member's credit in the accumulation account; and
- (b) the amount and rate of the return.

**Part 4            *Amendment of Northern Territory Government  
and Public Authorities' Superannuation  
Scheme Rules***

**39            Rules amended**

The Schedule amends the *Northern Territory Government and Public Authorities' Superannuation Scheme Rules*.

**Schedule Amendment of Northern Territory Government  
and Public Authorities' Superannuation  
Scheme Rules**

section 39

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Provision	Amendment	
	omit	substitute
rule 1, definition <b>declared interest rate</b>	whole definition	
rules 5B(3), 5C(3), 5D(2), 5E(5) and 5F(5)	Part III	Part 3
rule 13(2)	second sentence	

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