

NORTHERN TERRITORY OF AUSTRALIA

SUPERANNUATION LEGISLATION AMENDMENT AND REPEAL ACT 2014

Act No. 39 of 2014

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 39 of 2014

An Act to repeal or amend various legislation relating to superannuation

[Assented to 13 November 2014]

[Second reading 20 August 2014]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Superannuation Legislation Amendment and Repeal Act 2014*.

2 Commencement

- (1) Parts 1 and 2 commence on the day on which the Administrator's assent to this Act is declared.
- (2) The remaining provisions of this Act commence on the day fixed by the Administrator by *Gazette* notice.

Part 2 General amendments

Division 1 Superannuation Act

3 Act amended

This Division amends the *Superannuation Act*.

4 Long title amended

Long title

omit

all words from "**the (closed)**" to "**Invalidity Scheme**"

insert

various superannuation schemes for certain public sector employees and other persons

5 Section 3 amended

- (1) Section 3(1), definitions ***allocated pension***, ***dependant*** and ***exempt public sector superannuation scheme***

omit

- (2) Section 3(1)

insert (in alphabetical order)

ATO means the Commonwealth Commissioner of Taxation.

committee member means a member of a committee established under section 8TA.

dependant, see section 3AA.

exempt public sector superannuation scheme, see section 10 of the SIS Act.

LAMS Scheme means the scheme established by the *Legislative Assembly Members' Superannuation Fund Act*.

NTG scheme means one of the following:

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

- (c) the LAMS Scheme;
- (d) the NTSS Scheme;
- (e) a scheme in relation to which the Trustee Board exercises powers or performs functions under section 8B(1)(d).

NTSS Scheme means the Northern Territory Supplementary Superannuation Scheme established by instrument made by the Treasurer and dated 4 January 1989.

SIS Act means the *Superannuation Industry (Supervision) Act 1993* (Cth).

- (3) Section 3(1), definition **public authority**, paragraph (a), after "Agency"

insert

(whether its nomination in an Administrative Arrangements Order is as an Agency for the purposes of the *Public Sector Employment and Management Act*, the *Financial Management Act* or both)

6 Section 3AA inserted

After section 3

insert

3AA Meaning of *dependant*

- (1) In this Act:

dependant, in relation to a person, includes the following:

- (a) a spouse of the person;
 - (b) a child of the person;
 - (c) a person with whom the person has, in the Commissioner's opinion, an interdependency relationship (as defined in section 10A of the SIS Act).
- (2) A reference in this Act to a dependant of a person who is dead, is a reference to a person who was a dependant of the person immediately before his or her death.

7 Section 3B inserted

After section 3A, in Part 1

insert

3B Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 3B

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

8 Section 8 repealed

Section 8

repeal

9 Section 8BA inserted

After section 8B, in Part 2, Division 1A, Subdivision 1

insert

8BA Delegation

The Trustee Board may delegate any of the Board's powers and functions under this Act to:

- (a) a Trustee Board member; or
- (b) a committee established under section 8TA.

10 Section 8TA inserted

After section 8T, in Part 2, Division 1A, Subdivision 3

insert

8TA Committees

- (1) The Trustee Board may establish committees to assist it in the performance of its functions.

- (2) A committee:
- (a) must include a Trustee Board member as chairperson of the committee; and
 - (b) may include one or more other Trustee Board members; and
 - (c) may include one or more persons who are not Trustee Board members.
- (3) Subject to any directions given by the Trustee Board, a committee may determine its own procedures.
- (4) Sections 8S and 8T apply in relation to a committee and its members as if they were the Trustee Board and Board members.

11 Section 8TB inserted

Before section 8U, in Part 2, Division 1A, Subdivision 4

insert

8TB Apportionment of Trustee Board's general costs

- (1) The Board may apportion the Board's general costs between Board managed schemes in a manner the Board considers appropriate.
- (2) In this section:

Board's general costs means costs incurred by the Board in exercising its powers and performing its functions that are not attributable solely to the administration of one fund or scheme.

Board managed scheme means one of the following:

- (a) the NTGPAS Scheme;
- (b) the LAMS Scheme;
- (c) a scheme in relation to which the Trustee Board exercises powers or performs functions under section 8B(1)(d).

12 Section 8V amended

Section 8V(1), after "member"

insert

or committee member

13 Section 8W replaced

Section 8W

repeal, insert

8W Trustee Board members and committee members not subject to direction

A Trustee Board member or committee member is not subject to the direction of anyone in relation to the way in which he or she exercises powers or performs functions as a Board member or committee member.

14 Section 28 replaced

Section 28

repeal, insert

28 Records of accumulation accounts

The Commissioner must record the following in the accumulation account of a member or adherent:

- (a) contributions and approved deposits made to the account;
- (b) the return on the account;
- (c) benefits and other amounts paid from the account;
- (d) any other amounts debited or credited to the account.

15 Section 31 repealed

Section 31

repeal

16 Section 39 amended

Section 39(2)(b)(ii)

omit, insert

- (ii) costs incurred by the Trustee Board in the management of the Fund; and
- (iia) the portion of the Board's general costs (as defined in section 8TB(2)) that are apportioned under that section to the Scheme; and

(iib) the cost of borrowing for the purposes of the Fund; and

17 Part 3, Division 5 inserted

After section 45D

insert

Division 5 Release of amounts to pay tax debts

45DA Definitions

In this Division:

account holder means an eligible employee or adherent.

release amount, see section 45DC.

release authority means an authorisation:

- (a) issued under provisions of a Commonwealth Act that are prescribed by regulation for this definition; and
- (b) authorising the Commissioner to release an amount from an account holder's entitlements under the Scheme.

45DB Release of amount on issue of release authority by ATO

- (1) This section applies if:
 - (a) the ATO issues a release authority for an account holder; and
 - (b) the release authority is given to the Commissioner in accordance with the relevant Commonwealth Act and the Rules.
- (2) On receipt of the release authority, the Commissioner may pay the release amount:
 - (a) to the ATO; or
 - (b) if the relevant Commonwealth Act permits and the account holder so requests – to the account holder.

45DC Release amount

- (1) The ***release amount*** is whichever of the following is the least:
 - (a) the amount authorised by the release authority to be paid;
 - (b) the amount the account holder or ATO requests to be paid;

(c) the maximum available for release under subsection (2).

(2) The ***maximum available for release*** is:

(a) if the account holder is entitled to immediate payment of a benefit under the Scheme – the amount of that benefit; or

(b) otherwise – the balance of the account holder's accumulation account.

45DD Effect of releasing benefit

(1) This section applies if the Commissioner pays an amount to the ATO or an account holder under section 45DB(2).

(2) If the account holder is entitled to immediate payment of a benefit under the Scheme, the amount of the benefit is reduced by the amount paid under section 45DB(2).

(3) Otherwise, the Commissioner must debit the amount paid to the account holder's accumulation account.

18 Section 45E amended

Section 45E(1), definition ***death benefit***

omit

19 Section 45R repealed

Section 45R

repeal

20 Part 5 heading replaced

Part 5, heading

omit, insert

Part 5 General matters for NTGPAS Scheme and NTGDI Scheme

21 Section 45U repealed

Section 45U

repeal

22 Section 45X amended

Section 45X(2)

omit, insert

- (2) The amount the Commissioner may pay under subsection (1) is subject to a limit of \$30 000 or, if a higher limit is fixed by regulation, the higher limit.
- (2A) The Commissioner may make a payment in excess of the limit applying under subsection (2) if the payment is made to a dependant who, in the Commissioner's opinion, requires the payment to alleviate financial hardship.

23 Part 5, Division 5 heading omitted

Part 5, Division 5, heading

omit

24 Part 5B inserted

After section 49

insert

Part 5B General matters

49J Information to be provided to Commissioner or Trustee Board

- (1) The Commissioner may, for the purposes of the operation or management of an NTG Scheme, require a person to do either or both of the following:
- (a) answer questions or give information to the Commissioner or the Trustee Board;
 - (b) produce documents or other information to the Commissioner or the Trustee Board.
- (2) A person commits an offence if the person:
- (a) is given a requirement under subsection (1); and
 - (b) engages in conduct that results in a failure to comply with the requirement.

Maximum penalty: 100 penalty units.

- (3) It is a defence to a prosecution for an offence against subsection (2) if the person establishes a reasonable excuse.

49K Misleading information

- (1) A person commits an offence if the person:
- (a) gives information to the Commissioner or the Trustee Board;
and
 - (b) knows the information is misleading; and
 - (c) knows the Commissioner or Trustee Board is acting in an official capacity.

Maximum penalty: 100 penalty units.

- (2) A person commits an offence if the person:
- (a) gives a document to the Commissioner or the Trustee Board;
and
 - (b) knows the document contains misleading information; and
 - (c) knows the Commissioner or Trustee Board is acting in an official capacity.

Maximum penalty: 100 penalty units.

- (3) Subsection (2) does not apply if the person, when giving the document:
- (a) draws the misleading aspect of the document to the recipient's attention; and
 - (b) to the extent to which the person can reasonably do so – gives the recipient the information necessary to remedy the misleading aspect of the document.

- (4) In this section:

acting in an official capacity means exercising powers or performing functions under this Act or otherwise connected with the administration of this Act or the operation or management of an NTG Scheme.

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

49L Confidentiality of information

- (1) A person commits an offence if the person:
- (a) obtains information in the course of performing functions:
 - (i) connected with the administration of this Act; or
 - (ii) otherwise in relation to the operation or management of an NTG Scheme; and
 - (b) engages in conduct that results in the disclosure of the information.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies in relation to subsection (1)(a).
- (3) Subsection (1) does not apply if:
- (a) the person discloses the information:
 - (i) for the administration of this Act; or
 - (ii) for the operation or management of an NTG Scheme; or
 - (iii) with the consent of the person to whom the information relates; or
 - (iv) for legal proceedings arising out of the operation of this Act; or
 - (b) the information is otherwise available to the public.

Note for subsection (3)

In addition to the circumstances mentioned in subsection (3), a person who discloses confidential information will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

25 Section 50A amended

Section 50A(2), example

omit, insert

Example for section 50A(2)

The Commissioner might charge a fee for changing the investment of an accumulation account from one investment option to another.

26 Part 8 inserted

After section 63

insert

**Part 8 Transitional matters for Superannuation
Legislation Amendment and Repeal Act 2014**

Division 1 General

64 Application of offences

- (1) The offence provisions apply only in relation to offences committed after the commencement of section 7 of the *Superannuation Legislation Amendment and Repeal Act 2014* (the **commencement**).
- (2) The offence provisions, as in force before the commencement, continue to apply in relation to offences committed before the commencement.
- (3) For this section, if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.
- (4) In this section:

offence provisions means the provisions of this Act that relate to offences (including in relation to criminal responsibility, defences and penalties).

Division 2 Allocated pensions

65 Definitions

In this Division:

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.

commencement means the commencement of section 15 of the *Superannuation Legislation Amendment and Repeal Act 2014*.

pensioner, see section 66(1)(a).

remaining benefit, in relation to an allocated pension, means so much of the benefit from which the pension is being paid as remains unpaid.

66 Continued payment of existing allocated pensions

- (1) This section applies if:
 - (a) before the commencement, a benefit was being paid to a person (a **pensioner**) in the form of an allocated pension under section 31; and
 - (b) as at the commencement, part of the benefit remained unpaid.
- (2) Until the allocated pension is terminated under section 67, the Commissioner may continue paying the benefit in the form of an allocated pension as if section 31, as in force immediately before the commencement, were still in force.

67 Termination of allocated pensions

- (1) The Commissioner may terminate the allocated pension by transferring the remaining benefit to another superannuation fund under section 68.
- (2) The Commissioner must not do so unless the Commissioner has given the pensioner:
 - (a) written notice of the Commissioner's intention to do so; and
 - (b) a reasonable opportunity to transfer the remaining benefit to another superannuation fund of the pensioner's choice.

68 Transfer to successor fund

- (1) A superannuation fund is a **successor fund** if the Trustee Board and Commissioner:
 - (a) are satisfied that the fund confers on a member of the fund rights equivalent to those that a pensioner has under the Scheme in respect of an allocated pension; and
 - (b) have agreed with the trustee of the successor fund that those equivalent rights will be conferred on a pensioner if his or her benefit is transferred to the successor fund.

- (2) The Commissioner may transfer the pensioner's remaining benefit to a successor fund.
- (3) The Commissioner may do so without the consent of the pensioner.
- (4) However, if the successor fund is a registrable superannuation entity that is a regulated superannuation fund or an approved deposit fund, the Commissioner must not transfer the benefit unless the successor fund is registered under Part 2B of the SIS Act.
- (5) In this section:

approved deposit fund, see section 10(1) of the SIS Act.

registrable superannuation entity, see section 10(1) of the SIS Act.

regulated superannuation fund, see section 10(1) of the SIS Act.

69 Acquisition on just terms

- (1) If the operation of the allocated pension provisions would, apart from this section, result in an acquisition of property from a person otherwise than on just terms:
 - (a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and
 - (b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.
- (2) In this section:

allocated pension provisions means:

- (a) section 15 of the *Superannuation Legislation Amendment and Repeal Act 2014*; and
- (b) this Division.

Division 2 Legislative Assembly Members' Superannuation Fund Act

27 Act amended

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

28 Section 3B inserted

After section 3A, in Part I

insert

3B Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 3B

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

29 Section 4 amended

(1) Section 4(2)

omit

The Fund shall consist of:

insert

The following are to be credited to the Fund:

(2) After section 4(2)

insert

(2A) The following may be debited to the Fund:

- (a) benefits payable under this Act; and
- (b) costs incurred by the Trustee Board in the administration of the Scheme and management of the Fund; and
- (c) the portion of the Board's general costs (as defined in section 8TB of the *Superannuation Act*) that are apportioned under that section to the Scheme; and
- (d) the cost of any borrowing under subsection (3); and
- (e) any other amounts lawfully payable by the Trustee Board from the Fund.

30 Section 4A amended

Section 4A(2)

omit, insert

- (2) The account must record the following:
- (a) all contributions made by the member;
 - (b) the return on the account for each financial year;
 - (c) benefits and other amounts paid from the account;
 - (d) any other amounts debited or credited to the account.

31 Section 12 amended

Section 12(b)

omit, insert

- (b) a member of the Trustee Board; or
- (c) a committee established under section 8TA of the *Superannuation Act*.

32 Section 25AB inserted

After section 25A, in Part IV

insert

25AB Commutation to pay tax debts

- (1) This section applies if:
- (a) a former member or other person (a **taxpayer**) becomes entitled to a pension or allowance under this Act; and
 - (b) the Commonwealth Commissioner of Taxation (the **ATO**) issues a release authority (as defined in section 45DA of the *Superannuation Act*) for the taxpayer; and
 - (c) the release authority is given to the Commissioner:
 - (i) before payment of the taxpayer's pension or allowance commences; and
 - (ii) in accordance with the relevant Commonwealth Act.

- (2) Strict liability applies in relation to subsection (1)(a).
- (3) Subsection (1) does not apply if:
- (a) the person discloses the information:
 - (i) for the administration of this Act or otherwise in relation to the operation or management of the Scheme; or
 - (ii) with the consent of the person to whom the information relates; or
 - (iii) for legal proceedings arising out of the operation of this Act; or
 - (b) the information is otherwise available to the public.

Note for subsection (3)

In addition to the circumstances mentioned in subsection (3), a person who discloses confidential information will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

Division 3 Administrators Pensions Act

34 Act amended

This Division amends the *Administrators Pensions Act*.

35 Part 1 heading inserted

Before section 1

insert

Part 1 Preliminary matters

36 Section 3AB inserted

After section 3AA

insert

3AB Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 3AB

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

37 Part 2 heading inserted

Before section 3A

insert

Part 2 Tax related arrangements

38 Section 3E amended

Section 3E(1)(a), at the end

insert

and

39 Part 3 heading inserted

After section 3E

insert

Part 3 Pensions

40 Section 4 amended

Section 4(1)(a), at the end

insert

or

(b) the information is otherwise available to the public.

Note for subsection (3)

In addition to the circumstances mentioned in subsection (3), a person who discloses confidential information will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

Division 4 Superannuation Regulations

44 Regulations amended

This Division amends the *Superannuation Regulations*.

45 Regulation 3 repealed

Regulation 3

repeal

46 Regulation 5 amended

Regulation 5(1)(a)(i), (ii) and (iii) and (b)(i) to (vi), at the end

insert

or

47 Regulation 7 inserted

After regulation 6

insert

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).*

48 Schedule amended

Schedule, items 1 to 16

omit, insert

- 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
- 3 Charles Darwin University
Charles Darwin University Act
- 4 Menzies School of Health Research
Menzies School of Health Research Act
- 5 Board of the Museum and Art Gallery of the Northern Territory
Museum and Art Gallery of the Northern Territory Act
- 6 Northern Territory Legal Aid Commission
Legal Aid Act
- 7 Power and Water Corporation
Power and Water Corporation Act
- 8 Power Generation Corporation
Power Generation Corporation Act
- 9 Power Retail Corporation
Power Retail Corporation Act

Division 5 Northern Territory Government and Public Authorities' Superannuation Scheme Rules

49 Rules amended

This Division amends the *Northern Territory Government and Public Authorities' Superannuation Scheme Rules*.

50 Rule 1 amended

Rule 1, definitions *invalidity* and *reduced benefit classification*
omit

51 Part II heading replaced

Part II, heading
omit, insert

Part II Contributions

52 Rules 2 and 3 repealed

Rules 2 and 3
repeal

53 Rule 9 amended

Rule 9(1)(c)
omit
component subject to a reduced benefit classification if applicable,
insert
component;

54 Rule 10 amended

(1) Rule 10(1)
omit
is assessed by the Commissioner as being
insert
the Commissioner determines under subrule (1A) is

(2) Rule 10(1)(c)

omit

component subject to a reduced benefit classification if applicable,

insert

component;

(3) After rule 10(1)

insert

(1A) The Commissioner may determine that a member who ceases (or has ceased) to be employed is subject to invalidity if the Commissioner is satisfied, after considering relevant medical and other evidence, that, as at the date of cessation of employment, the member is (or was) physically or mentally so incapacitated that the member is (or was) unfit for any available full-time or part-time employment:

(a) with an employer whose employees are covered by the Scheme; and

(b) for which the member is reasonably qualified by education, training or experience.

55 Rule 12 amended

Rule 12(3)

omit

56 Rule 13A amended

Rule 13A, heading

omit, insert

13A Crystallisation of benefits

57 Rule 18 amended

(1) Rule 18, heading

omit

3,

(2) Rule 18(1) and (2)

omit

58 Part V inserted

After rule 18

insert

**Part V Transitional matters for Superannuation
Legislation Amendment and Repeal Act 2014**

19 Abolition of reduced benefit classifications

(1) These Rules, as amended by sections 51, 52, 53, 54(2) and 55 of the 2014 Act, apply in relation to a benefit under rule 9 or 10 only if the trigger for the benefit occurs on or after the commencement.

(2) These Rules, as in force before the commencement, continue to apply in relation to a benefit under rule 9 or 10 if the trigger for the benefit occurred before the commencement.

(3) In this rule:

2014 Act means the *Superannuation Legislation Amendment and Repeal Act 2014*.

commencement means the commencement of section 52 of the 2014 Act.

trigger, for a benefit under rule 9 or 10, means the death or retirement mentioned in those rules as a result of which the benefit is payable.

**Division 6 Northern Territory Supplementary Superannuation
Scheme Instrument**

59 Instrument amended

This Division amends the instrument, made by the Treasurer and dated 3 January 1989, establishing the Northern Territory Supplementary Superannuation Scheme.

60 Clause 3 amended

Clause 3, definition **Dependant**

omit, insert

Dependant Has the same meaning as in section 3AA of the Superannuation Act.

61 Clause 8 inserted

After clause 7

insert

8. RELEASE OF AMOUNTS TO PAY TAX DEBTS

- (1) This clause applies if:
- (a) an eligible employee is entitled to payment of a benefit under clause 6; and
 - (b) the Commonwealth Commissioner of Taxation (the **ATO**) issues a release authority (as defined in section 45DA of the *Superannuation Act*) for the eligible employee; and
 - (c) the release authority is given to the Commissioner in accordance with the relevant Commonwealth Act.
- (2) On receipt of the request, the Commissioner may pay the release amount:
- (a) to the ATO; or
 - (b) if the relevant Commonwealth Act permits and the eligible employee so requests – to the eligible employee.
- (3) The **release amount** is whichever of the following is the least:
- (a) the amount authorised by the release authority to be paid;
 - (b) the amount the eligible employee or the ATO requests to be paid;
 - (c) the amount of the benefit mentioned in subclause (1)(a).

- (4) On payment of an amount under subclause (2), the amount of the benefit mentioned in subclause (1)(a) is reduced by the amount paid under subclause (2).

Part 3 Amendments about claim times and review of decisions

Division 1 Superannuation Act

62 Act amended

This Division amends the *Superannuation Act*.

63 Section 3 amended

- (1) Section 3(1), definition ***Review Board***

omit

- (2) Section 3(1)

insert (in alphabetical order)

reviewable decision, for Part 5A, see section 49B.

Tribunal, for Part 5A, see section 49A.

64 Part 2, Division 2 repealed

Part 2, Division 2

repeal

65 Section 37 amended

Section 37(3) and (5)

omit

66 Section 45V amended

Section 45V

omit

and the Review Board

67 Part 5, Division 4 heading amended

Part 5, Division 4 heading

omit

and review of decisions

68 Section 46 amended

(1) Section 46(3)

omit, insert

(2A) If the applicant claims to be entitled to a benefit because of having retired from employment on the ground of invalidity, the application must be made within 2 years after the applicant ceased employment.

(3) The Commissioner must make a decision on an application as soon as practicable after receiving it.

(3A) On making a decision, the Commissioner must give the applicant a written notice setting out:

(a) the Commissioner's decision; and

(b) either:

(i) the Commissioner's reasons for the decision; or

(ii) that the applicant has a right to request written reasons under subsection (4); and

(c) that the applicant has a right under Part 5A to have the decision reviewed.

(2) Section 46(5)

omit

69 Sections 47, 48 and 49 replaced

Sections 47, 48 and 49

repeal, insert

Part 5A Review of decisions

49A Definitions

In this Part:

reviewable decision, see section 49B.

Tribunal means the Civil and Administrative Tribunal.

49B Meaning of *reviewable decision*

- (1) Each of the following is a ***reviewable decision***:
 - (a) a decision made by the Commissioner about the operation or management, in relation to a particular person, of:
 - (i) the NTGPAS Scheme; or
 - (ii) the NTGDI Scheme; or
 - (iii) the NTSS Scheme;
 - (b) a decision made by the Trustee Board about the operation or management, in relation to a particular person, of:
 - (i) the LAMS Scheme; or
 - (ii) a scheme in relation to which the Trustee Board exercises powers or performs functions under section 8B(1)(d).
- (2) For subsection (1), the Commissioner or Trustee Board makes a decision if the Commissioner or Board:
 - (a) makes, or fails to make, a decision; or
 - (b) engages in any conduct, or fails to engage in any conduct, in relation to making a decision.

- (3) For subsection (2)(a), the Commissioner or Trustee Board is taken to have failed to make a decision if:
 - (a) in relation to a decision that the Commissioner or Trustee Board is required to make within a specified period – the decision has not been made at the expiry of that period; or
 - (b) otherwise – the decision has not been made at the expiry of a reasonable period after the obligation to make the decision arose.
- (4) To avoid doubt, a decision in relation to the operation or management of a scheme or fund as a whole is not a reviewable decision.

49C Application for review by Commissioner

- (1) A person, or the executor or administrator of a person's estate, who is aggrieved by a reviewable decision made in relation to the person, may apply to the Commissioner for review of the decision.
- (2) The application must:
 - (a) be made:
 - (i) in the approved form or, if no form is approved, in writing; and
 - (ii) within the time prescribed by regulation; and
 - (b) state the grounds on which it is made and the facts relied on to establish the grounds; and
 - (c) be accompanied by the fee prescribed by regulation (if any).

49D Commissioner to review decision

- (1) On receipt of an application, the Commissioner must review the reviewable decision.
- (2) However, the Commissioner may decline to review the decision if satisfied the application is frivolous or vexatious.

49E Conduct and determination of review

- (1) In reviewing a reviewable decision, the Commissioner:
 - (a) may decide the procedures of the review; and
 - (b) must comply with the rules of natural justice.

- (2) To decide the review, the Commissioner must:
 - (a) affirm the reviewable decision; or
 - (b) vary the reviewable decision; or
 - (c) set aside the reviewable decision and substitute a new decision.
- (3) The Commissioner must decide the review:
 - (a) if the reviewable decision relates to a death benefit – within 30 days after the application is made; or
 - (b) otherwise – within 90 days after the application is made.

49F Notice of decision on review

On deciding the review, the Commissioner must give the applicant a written notice setting out:

- (a) the Commissioner's decision on the review; and
- (b) the reasons for the decision; and
- (c) that the person has a right to have the decision reviewed by the Tribunal.

49G Application for review by Tribunal

- (1) An applicant under section 49C who is aggrieved by the Commissioner's decision under section 49E, may apply to the Tribunal for review of that decision.
- (2) The application must be made:
 - (a) within the time prescribed by regulation; and
 - (b) in accordance with the *Northern Territory Civil and Administrative Tribunal Act*.

49H Tribunal has jurisdiction

The Tribunal has jurisdiction to deal with matters under this Part.

70 Part 8, Division 3 inserted

After section 69

insert

Division 3 Claim times and review of decisions

70 Definition

In this Division:

commencement means the commencement of section 64 of the *Superannuation Legislation Amendment and Repeal Act 2014*.

71 Time limit for claiming permanent invalidity benefit

For a person claiming to be entitled to a benefit because of having retired from employment before the commencement on the ground of invalidity, the reference in section 46(2A) to 2 years after the date of cessation of employment is taken to be a reference to 2 years after the commencement.

72 Part 5A – decisions about NTGPAS and NTGDI Schemes made before commencement

- (1) This section applies if, before the commencement, the Commissioner made a decision about the operation or management of the NTGPAS Scheme or NTGDI Scheme in relation to a person.
- (2) If, as at the commencement, no application for reconsideration had been made under section 46(5), the decision is a reviewable decision for Part 5A.
- (3) If an application was made under section 46(5) before the commencement but, as at the commencement, the application had not been determined, the application is taken to be an application under section 49C and is to be dealt with under Part 5A.
- (4) If an application for review was made under section 47(1) before the commencement but, as at the commencement, the application had not been determined, the application is to be dealt with and determined (including as to the exercise of any right of appeal) in accordance with this Act as in force immediately before the commencement.

73 Part 5A – decisions about LAMS Scheme made before commencement

Part 5A does not apply in relation to a decision of the Trustee Board about the operation or management of the LAMS Scheme that was made before the commencement.

74 Part 5A – decisions about NTSS Scheme made before commencement

- (1) This section applies if, before the commencement, the Commissioner made a decision under the Instrument about the operation or management of the NTSS Scheme in relation to a person.
- (2) If, as at the commencement, no application for review had been made under clause 14 of the Instrument:
 - (a) the decision is a reviewable decision for Part 5A; but
 - (b) section 49G does not apply in relation to the decision.
- (3) If an application was made under clause 14 of the Instrument before the commencement but, as at the commencement, the application had not been determined, the application is to be dealt with and determined in accordance with the Instrument as in force immediately before the commencement.
- (4) In this section:

Instrument means the instrument made by the Treasurer and dated 4 January 1989 establishing the NTSS Scheme.

75 Part 5A – decisions about PSB Scheme made before commencement

- (1) This section applies if, before the commencement, the Trustee made a decision under the Trust Deed about the operation or management of the PSB Scheme in relation to a person.
- (2) If, as at the commencement, no application for review had been made under clause 27 of the Trust Deed:
 - (a) the decision is a reviewable decision for Part 5A; but
 - (b) section 49G does not apply in relation to the decision.

(3) If an application was made under clause 27 of the Trust Deed before the commencement but, as at the commencement, the application had not been determined, the application is to be dealt with and determined in accordance with the Trust Deed as in force immediately before the commencement.

(4) In this section:

PSB Scheme means the Northern Territory Police Supplementary Benefit Scheme.

Trust Deed, means the trust deed dated 15 June 1984 between the Territory and Otto Kenneth Alder, Arthur Alexander Grant and Michael John Palmer establishing the PSB Scheme, as amended.

Trustee means the trustee under the Trust Deed.

Division 2 Legislative Assembly Members' Superannuation Fund Act

71 Act amended

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

72 Section 27B inserted

After section 27A

insert

27B Claims for benefits

- (1) A person entitled, or claiming to be entitled, to a benefit under this Act may apply to the Trustee Board, in the form approved by the Board, for payment of that benefit.
- (2) If the application relates to a benefit under section 22, it must be made within 2 years after the person ceased to be a member.
- (3) The Trustee Board must make a decision on the application as soon as practicable after receiving it.
- (4) On making a decision, the Trustee Board must give the applicant a written notice setting out:
 - (a) the Trustee Board's decision; and

- (b) either:
- (i) the Trustee Board's reasons for the decision; or
 - (ii) that the applicant has a right to request written reasons under subsection (5); and
- (c) that the applicant has a right under Part 5A of the *Superannuation Act* to have the decision reviewed.
- (5) An applicant may, in writing, require the Trustee Board to give reasons for the Board's decision and the Board must give the applicant those reasons in writing.

73 Part VII inserted

After section 36

insert

**Part VII Transitional matters for Superannuation
Legislation Amendment and Repeal Act 2014**

37 Time limit for claiming retirement through ill health benefit

- (1) For a person who ceased to be a member before the commencement, the reference in section 27B(2) to 2 years after the person ceased to be a member is taken to be a reference to 2 years after the commencement.
- (2) In this section:

commencement means the commencement of section 72 of the *Superannuation Legislation Amendment and Repeal Act 2014*.

Division 3 Administrators Pensions Act

74 Act amended

This Division amends the *Administrators Pensions Act*.

75 Section 3 amended

Section 3

insert (in alphabetical order)

decision, for Part 4, see section 7A.

Tribunal, for Part 4, means the Civil and Administrative Tribunal.

76 Part 4 inserted

After section 7

insert

Part 4 Review of decisions

7A Meaning of *decision*

For this Part, a person makes a ***decision*** if the person:

- (a) makes a decision; or
- (b) engages in any conduct in relation to making a decision.

7B Application for review by Tribunal

- (1) A person, or the executor or administrator of a person's estate, who is aggrieved by a decision made under this Act in relation to the person, may apply to the Tribunal for review of the decision.
- (2) The application must be made:
 - (a) within the time mentioned in section 7C; and
 - (b) in accordance with the *Northern Territory Civil and Administrative Tribunal Act*.

7C Time limit for application for review

- (1) For section 7B(2)(a), the time within which an application for review of a decision must be made is:
 - (a) if the decision relates to a benefit under section 5 – 30 days after the decision was made; or
 - (b) otherwise – 12 months after the decision was made.
- (2) The Tribunal may allow a longer period within which an application for review may be made.
- (3) However, the Tribunal may do so for subsection (1)(a) only if satisfied that the decision maker failed to comply with the requirements under the *Northern Territory Civil and Administrative Tribunal Act* to notify the aggrieved person of his or her right to apply for review.

7D Tribunal has jurisdiction

The Tribunal has jurisdiction to deal with matters under this Part.

77 Part 6 heading inserted

Before section 11

insert

Part 6 Transitional matters

78 Section 11 amended

Section 11, heading

omit

Transitional matters for

79 Section 12 inserted

After section 11

insert

12 *Superannuation Legislation Amendment and Repeal Act 2014*

Part 4 does not apply in relation to a decision made before the commencement of section 76 of the *Superannuation Legislation Amendment and Repeal Act 2014*.

Division 4 Superannuation Regulations

80 Regulations amended

This Division amends the *Superannuation Regulations*.

81 Regulation 8 inserted

Before the Schedule

insert

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.
- (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*;

- (d) clause 6(1)(b) of the instrument establishing the NTSS Scheme.

Division 5 Northern Territory Supplementary Superannuation Scheme Instrument

82 Instrument amended

This Division amends the instrument, made by the Treasurer and dated 3 January 1989, establishing the Northern Territory Supplementary Superannuation Scheme.

83 Clause 13 amended

- (1) After clause 13(2)

insert

- (2A) On making a decision, the Commissioner must give the applicant a written notice setting out:

- (a) the Commissioner's decision; and
- (b) either:
 - (i) the Commissioner's reasons for the decision; or
 - (ii) that the applicant has a right to request written reasons under subclause (3); and
- (c) that the applicant has a right under Part 5A of the Superannuation Act to have the decision reviewed.

- (2) After clause 13(3)

insert

Note Under Part 5A of the Superannuation Act, a person aggrieved by a decision under this NTSS Scheme relating to the person may seek to have the decision reviewed by the Commissioner, and if the person is still aggrieved, by the Civil and Administrative Tribunal.

84 Clause 14 repealed

Clause 14

repeal

Part 4 Repeal and amendments about unclaimed benefits

Division 1 Repeal

85 Act repealed

The *Unclaimed Superannuation Benefits Act 1998* (Act No. 30 of 1998) is repealed.

Division 2 Superannuation Act

86 Act amended

This Division amends the *Superannuation Act*.

87 Section 39 amended

Section 39(2)(b)(iii)

omit, insert

- (iii) amounts payable to the Commonwealth Commissioner of Taxation under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (Cth) in relation to persons entitled to benefits under the Scheme.

88 Section 45Z replaced

Section 45Z

repeal, insert

45Z Unclaimed benefits and lost members

If the NTGPAS Scheme is prescribed for the purposes of a provision of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (Cth), the Commissioner must comply with that Act in relation to the Scheme.

89 Part 8, Division 4 inserted

Before the Schedule

insert

Division 4 Unclaimed benefits

76 Transfer of unclaimed benefits to ATO

- (1) As soon as practicable after the commencement of this section, the Treasurer must pay to the ATO an amount calculated in accordance with the following formula:

$$T = U - R$$

where:

T is the amount to be paid.

U is the total of the amounts of unclaimed superannuation benefits paid to the Treasurer under section 5 of the repealed USB Act in relation to persons entitled to benefits under an NTG scheme.

R is the total of the amounts paid by the Treasurer under section 6 of the repealed USB Act in relation to those persons.

- (2) When making a payment under subsection (1), the Treasurer must give to the ATO:
- (a) a copy of the register kept under section 7 of the repealed USB Act; and
 - (b) any other information in the Treasurer's possession that the ATO might reasonably need in order to deal with the money in accordance with the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (Cth).
- (3) The amount payable under subsection (1) is to be paid from the Consolidated Holding Authority which is appropriated accordingly.
- (4) In this section:

repealed USB Act means the *Unclaimed Superannuation Benefits Act* repealed by section 85 of the *Superannuation Legislation Amendment and Repeal Act 2014*.

Part 5 Expiry of Act

90 Expiry of Act

This Act expires on the day after it commences.