

NORTHERN TERRITORY OF AUSTRALIA

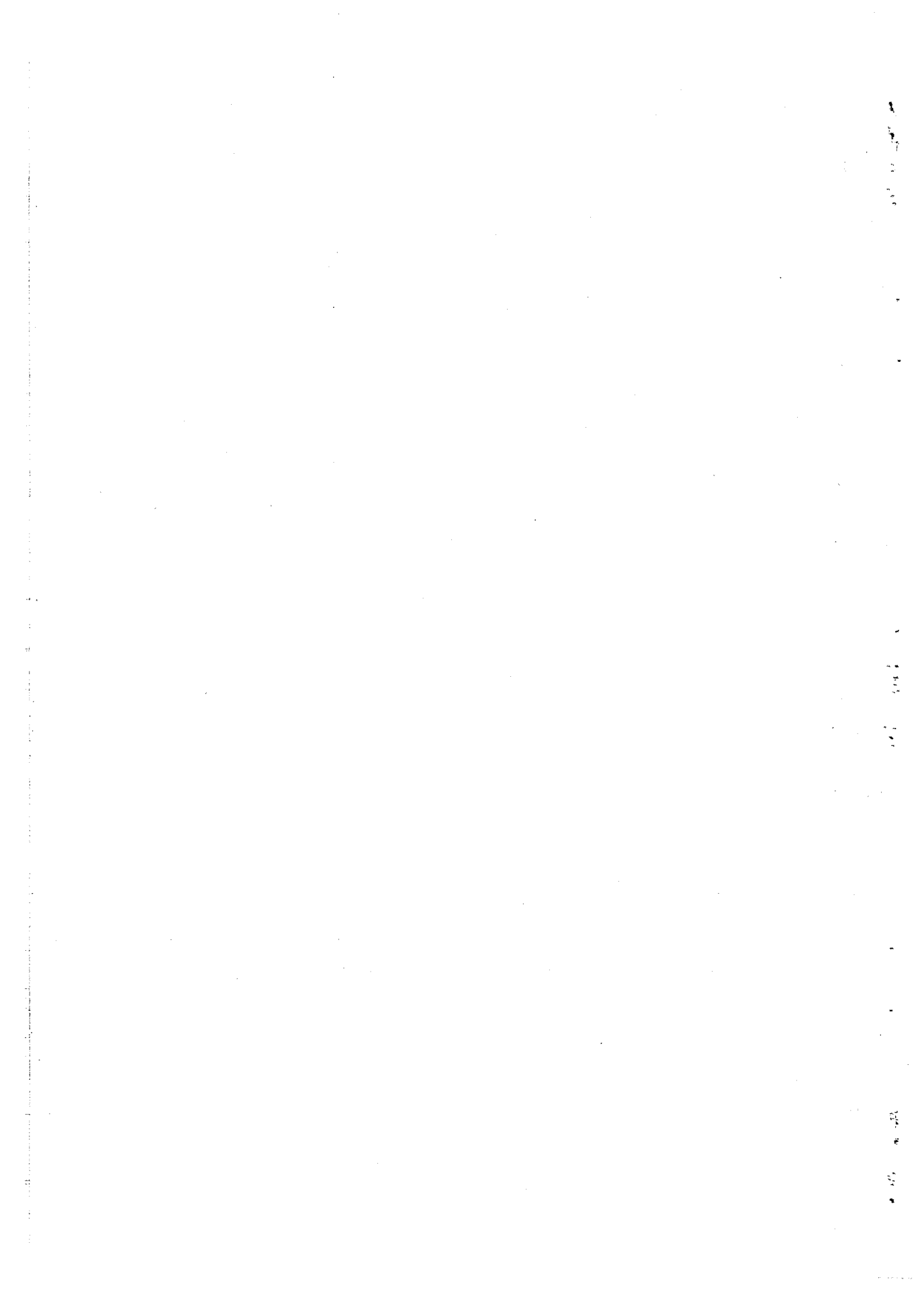
LEGISLATIVE ASSEMBLY MEMBERS' SUPERANNUATION
AMENDMENT ACT 1989

No. 34 of 1989

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NORTHERN TERRITORY OF AUSTRALIA

No. 34 of 1989

AN ACT

to amend the *Legislative Assembly Members' Superannuation Act*

[Assented to 28 August 1989]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Legislative Assembly Members' Superannuation Amendment Act 1989*.

2. COMMENCEMENT

This Act shall be deemed to have come into operation on 1 July 1989.

3. PRINCIPAL ACT

The *Legislative Assembly Members' Superannuation Act* is in this Act referred to as the Principal Act.

4. DEFINITIONS

Section 3 of the Principal Act is amended -

- (a) by inserting before the definition of "additional salary" the following:

"'accumulation account' means the account of a member or former member recorded in the accounts of the Fund;"; and

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(b) by inserting after the definition of "member" the following:

"'term of the Assembly', in relation to a member, means the period between his election as a member (whether or not at a general election) and the date of the next succeeding general election of members of the Assembly;"

5. NEW SECTIONS

(1) The Principal Act is amended by inserting after section 4 the following:

"4A. MEMBERS' ACCUMULATION ACCOUNTS

"(1) The Trustees shall keep, as a separate account in the accounts of the Fund, separate records of all contributions of a member and, where necessary, a former member and, in accordance with subsection (2), the interest accumulated on those contributions.

"(2) The Trustees shall, as soon as practicable after the end of a financial year, or other period in respect of which under section 4B(2) a rate of interest is declared, credit to the accumulation account of a member or former member the interest payable on the moneys recorded in that account for that year or period and provide to the member or former member, in such form as they think fit, a statement of his accumulation account showing the aggregate of the interest credited to the account to the end of that financial year or period.

"4B. FIXING OF INTEREST RATES

"(1) Subject to subsection (3), the Trustees shall, as soon as practicable after the end of each financial year, declare a rate as the rate at which interest will accrue on members' and former members' accumulation accounts in the Fund during that financial year.

"(2) The Trustees shall, from time to time, declare an interim interest rate in respect of a period where an interest rate under subsection (1) has not been declared and that interim interest rate shall be the rate applied in respect of the entitlement of a person where, during that period, he ceases to be a member.

"(3) The Trustees shall not declare a rate under subsection (1) or (2) which does not, in their opinion, approximate the net earning rate of the Fund for the period in relation to which it is declared adjusted, as the Trust thinks fit, to reduce fluctuations."

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(2) As soon as practicable after the commencement of this Act the Trustees shall credit to the accumulation account of each member (and former member where applicable) an amount of the Fund representing the member's or former member's contributions, or other amounts paid into the Fund by him under the Principal Act, and an amount representing the interest earned on those contributions and payments under the Principal Act, and make whatever consequential adjustments to the records of the Fund they consider necessary in the circumstances.

6. CONTRIBUTIONS BY MEMBERS

Section 16 of the Principal Act is amended -

(a) by omitting from subsection (1) "Every Member" and substituting "Subject to subsection (1A), every member";

(b) by inserting after subsection (1) the following:

"(1A) A member is not required to contribute to the Fund in respect of any basic salary received by him after the completion of 20 years service as a member but may, within 14 days (or such longer period as the Trustees allow) after the completion of that 20 years service, by notice in writing to the Minister and the Trustees, elect to pay contributions or to continue to pay contributions in respect of his additional salary earned after the completion of that 20 years service and shall contribute to the Fund accordingly.";

(c) by omitting from subsection (2)(a) "and";

(d) by omitting from subsection (2)(b) "and additional salary." and substituting "and additional salary; and"; and

(e) by adding at the end of subsection (2) the following:

"(c) in the case of a member who is in receipt of additional salary in respect of which he has made an election under subsection (1A) - 11.5% of that additional salary.".

7. DEFINITIONS

Section 18 of the Principal Act is amended by omitting from the definition of "dependent child" the word "grandchild" and substituting "foster child".

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8. PENSIONS

Section 19 of the Principal Act is amended by omitting subsection (1) and substituting the following:

"(1) Subject to this Act, a person who has been entitled to salary as a member for an aggregate period of 10 years or more or 3 full terms of the Assembly (whichever is the lesser period) and ceases for any reason to be a member shall, on his so ceasing to be a member and on his ceasing to be entitled to payment of salary, be entitled to be paid out of the Fund an annual pension at a rate equal to $A \times \frac{B}{C}$, where -

A is an amount at the rate equal to the aggregate of -

(a) 46% of current basic salary; and

(b) 0.2% of current basic salary in respect of each completed month of service as a member in excess of an aggregate period of service of 10 years as a member,

or the rate of 70% of the current basic salary, whichever is the lesser amount;

B is the total salary received as a member by that person; and

C is the total basic salary in respect of that person."

9. BENEFITS TO CERTAIN FORMER MEMBERS AND TO ESTATE WHERE NO DEPENDANTS

Section 21 of the Principal Act is amended -

(a) by omitting "at a rate determined by the Trustees" and substituting "credited to his accumulation account"; and

(b) by adding at the end the following:

"(2) Where a member dies leaving no spouse or dependent child surviving him, there is payable to his estate a lump sum amount equal to twice the amount standing to the credit of his accumulation account at the date of his death."

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10. RETIREMENT THROUGH ILL HEALTH

Section 22 of the Principal Act is amended -

- (a) by omitting from subsection (1) "15 years" and substituting "10 years"; and
- (b) by omitting from subsection (2) all words after "if he ceases to be a member" and substituting "before the expiration of a period of 10 years and, for the purposes of that calculation, he shall be deemed to have served 10 years".

11. SPOUSES' AND DEPENDENT CHILDRENS' BENEFIT

(1) Section 24 of the Principal Act is amended -

- (a) by omitting subsection (1) and substituting the following:

"(1) On the death of a former member who was receiving a pension under this Part, the spouse of that former member shall be entitled to an annual pension at the rate of -

- (a) in the case where the former member had not converted any part of his pension entitlement to a lump sum payment -
 - (i) five-eighths of the pension that would have been payable, from time to time, to the former member but for his death; or
 - (ii) 40% per annum of the basic salary from time to time,

whichever is the greater amount; and

- (b) in the case where the former member had converted part of his pension entitlement to a lump sum payment - five-eighths of the pension that would have been payable, from time to time, to the former member but for his death,

but the spouse shall be entitled to no pension if the former member had converted his entire pension entitlement to a lump sum payment.";

- (b) by omitting from subsection (2) ", until her death or remarriage,";

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- (c) by omitting from subsection (3) all words after "spouse," and substituting "at the same rate as that applying under subsection (2) and, for that purpose, the member shall be deemed to have served 10 years";
- (d) by omitting from subsection (4) "Where a member" and substituting "Subject to subsection (5), where a member"; and
- (e) by omitting subsection (5) and substituting the following:

"(5) An amount otherwise payable under subsection (4) in respect of a dependent child shall, where the child is a dependent child of a former member or the spouse of a deceased member who has converted a part of his or her pension entitlement to a lump sum payment, be reduced by the same proportion as the proportion of the pension entitlement that was converted to a lump sum payment bears to the whole amount of the original pension entitlement of the former member or spouse, as the case may be and, if the whole of the pension entitlement has been converted into a lump sum payment, there should be no entitlement to an allowance under subsection (4).

"(6) A dependent child of a member who died in office without leaving a spouse surviving him, or a person acting on behalf of such a child, may, within 6 months after the date of death of the member, apply to the Trustees to have a lump sum equal to twice the amount of the deceased member's accumulation account distributed for the dependent child's benefit as a lump sum payment in lieu of an allowance under subsection (4) and the Trustees may, in their absolute discretion, after receiving and considering such actuarial advice, if any, as they think fit and taking into account whether the payment of an allowance rather than the lump sum benefit would be to the advantage of that or any other dependent child, distribute the lump sum benefit amongst the deceased member's dependent and non-dependent children in such proportion as, in the opinion of the Trustees, is equitable in the circumstances.

"(7) Where an amount in respect of an infant or other person under a legal disability is paid under this section by the Trustees to a person having the care or control of the infant or other person or the infant's or other persons's property, the Trustees shall not be bound to see to the application of that amount.

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"(8) Where at the time of his death a member or former member had more than one spouse, the aggregate amount payable under this section shall not exceed the amount that would have been payable if at that time he had only one spouse, and the Trustees, in their absolute discretion, may apportion any such amount between the spouses as, in the opinion of the Trustees, is equitable in the circumstances."

(2) Where before the commencement of this Act a former member had converted the whole or a part of his pension entitlement to a lump sum payment and after that commencement did not so convert any other part of his pension entitlement -

- (a) his spouse's entitlement to a pension on his death; or
- (b) where he was not survived by his spouse, any allowance payable in respect of a dependent child of the former member,

shall be calculated, and is payable, as if subsection (1)(a) (and subsection (1)(e) in so far as it effects the addition of subsection (5) to section 24 of the Principal Act) had never commenced.

12. COMMUTATION OF PENSION - FORMER MEMBER

Section 25 of the Principal Act is amended -

- (a) by omitting from subsection (1) "Subject to subsection (4), a" and substituting "A" and by omitting from the same subsection "section 19" and substituting "section 19 or 22";
- (b) by omitting subsection (2) and substituting the following:

"(2) A lump sum payment under subsection (1) shall be equal to the higher amount resulting from the application of the following 2 formulas:

- (a) $R \times P \times (10 - \frac{Y}{2})$;
- (b) $R \times 2.5 \times D$,

where -

- R is the proportion of pension to be commuted;
- P is the annual amount of pension entitlement;

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Y is -

- (i) where the person has not attained the age of 66 years - 0; and
- (ii) in any other case - the number of completed years between the age of the person at the time of electing for commutation and 65; and

D is the value of the person's accumulation account at the time of his ceasing to be a member."; and

(c) by omitting subsection (4).

13. NEW SECTION

(1) The Principal Act is amended by inserting after section 25 the following:

"25A. COMMUTATION OF PENSION - SPOUSE

"(1) The spouse of a member, who is entitled to a pension under section 24(2) or (3), may, within 6 months after first becoming entitled to that pension, by notice in writing to the Trustees, elect to convert all or part of the pension entitlement to a lump sum payment determined in accordance with subsection (2).

"(2) A lump sum payment under subsection (1) shall be equal to the higher amount resulting from the application of the following 2 formulas:

(a) $R \times S \times (10 - \frac{Y}{2})$;

(b) $R \times 2 \times D$,

where -

R is the proportion of pension to be commuted;

S is the annual amount of spouse's pension entitlement;

D is the value of the member's accumulation account at the time of his death; and

Y is -

- (i) where the spouse has not attained the age of 66 years - 0; and

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- (ii) in any other case - the number of completed years between the age of the spouse at the time of electing for commutation and 65.

"(3) Nothing in this section shall be construed as depriving a spouse referred to in subsection (1) of the right to receive pension payments in respect of the period between first becoming entitled to a pension and the making of an election under that subsection to commute the entitlement.

"(4) The spouse of a former member, who is entitled to a pension under section 24(1), may, within 6 months after first becoming entitled to that pension, by notice in writing to the Trustees, elect to convert all or part of the pension entitlement to a lump sum payment equal to the amount resulting from the application of the formula $R \times S \times (10 - \frac{Y}{2})$, where -

R, S, and Y have the same meaning as in subsection (2)."

(2) Where immediately before the commencement of this Act -

- (a) a former member referred to in section 25(1) of the Principal Act as amended by this Act; or
- (b) a spouse referred to in section 25A(1) or (4) of the Principal Act as amended by this Act,

was entitled to a pension but the 3 and 6 months periods respectively referred to in those subsections had already expired, that former member or spouse may, within 6 months after that commencement, elect to convert all or part of the pension entitlement to a lump sum payment in accordance with the relevant section as if he or she had first become entitled to the pension on that commencement, and the relevant section shall apply accordingly.
