

NORTHERN TERRITORY OF AUSTRALIA
SUPERANNUATION AMENDMENT ACT 1987

No. 56 of 1987

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NORTHERN TERRITORY OF AUSTRALIA

No. 56 of 1987

AN ACT

to amend the *Superannuation Act*

[Assented to 4 December, 1987]

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 *Superannuation Amendment Act 1987*.

2. COMMENCEMENT

(1) Section 14 shall be deemed to have come into operation on 1 October 1986.

(2) The remaining provisions of this Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

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

4. INTERPRETATION

Section 3(1) of the Principal Act is amended -

- (a) by omitting from paragraph (b)(iii) of the definition of "eligible employee" the words "his employer;" and substituting "any employer; or";
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- (b) by omitting from that definition paragraph (c);
- (c) by omitting from paragraph (d) of that definition subparagraphs (i) and (ii) and substituting the following:
 - "(i) an employee in the Public Service;
 - (ii) an officer or employee of the Northern Territory Teaching Service; or
 - (iii) a member of the Police Force;"
- (d) by omitting from paragraph (a) of the definition of "permanent employee" subparagraphs (i) and (ii) and substituting the following:
 - "(i) an employee in the Public Service;
 - (ii) an officer or employee of the Northern Territory Teaching Service; or
 - (iii) a member of the Police Force,"
- (e) by inserting after the definition of "permanent employee" the following:

"'Police Associations' means the Northern Territory Police Association and the Northern Territory Police Commissioned Officers Association"; and
- (f) by inserting after the definition of "Scheme" the following:

"'spouse', in relation to an eligible employee or former eligible employee, includes -

 - (a) a person who is accepted by the Commissioner as having, immediately before the relevant date (or, in the case of a deceased employee, immediately before the employee's death) ordinarily lived with the employee as husband or wife on a permanent and bona fide domestic basis; and
 - (b) where the employee is an aboriginal native of Australia, a person referred to in paragraph (a) or a person who is, according to the customs of the group or tribe of aboriginal natives of Australia to which either belongs, married to the employee,

and 'widow' and 'widower' shall be construed accordingly;"

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5. **SECRECY**

Section 8(1) of the Principal Act is amended by omitting "person who is employed" and substituting "person who is, or has at any time been, employed".

6. **SUPERANNUATION REVIEW BOARD**

Section 9 of the Principal Act is amended by omitting subsection (2)(b) and substituting the following:

"(b) 3 other residents of the Territory appointed by the Minister, of whom -

(i) one, who shall be a member of an industrial union having a significant membership among eligible employees, shall be appointed on the nomination of the Trades and Labor Council; and

(ii) one shall be appointed on the nomination of the Police Associations jointly.

"(3) The member of the Review Board appointed on the nomination of the Police Associations shall act as such only where the Board is -

(a) reviewing as mentioned in section 10(1)(a) a matter concerning a member of the Police Force; or

(b) considering under section 37(3) proposed amendments to the Rules which, in the opinion of the Chairman, are of particular significance to members of the Police Force,

and, in the circumstances mentioned in paragraph (a), shall so act to the exclusion of the member appointed on the nomination of the Trades and Labor Council."

7. **NOMINATION AND APPOINTMENT OF MEMBERS**

Section 14 of the Principal Act is amended -

(a) by omitting from subsection (1) "section 9(2)(b)" and substituting "section 9(2)(b)(i)";

(b) by omitting from subsection (1) all words after "qualified" and substituting "for nomination by the Council and suitable to be appointed, and the person so appointed shall be deemed to have been appointed on the nomination of the Council."; and

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

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"(1A) If the Police Associations fail to make a nomination for the purposes of section 9(2)(b)(ii) within 28 days after being requested in writing by the Minister to do so, the Minister may appoint any resident of the Territory whom he considers suitable to be appointed, and the person so appointed shall be deemed to have been appointed on the nomination of the Associations."

8. ALTERNATE MEMBERS

Section 15(2) of the Principal Act is amended by omitting all words after "Trades and Labor Council" and substituting "or the Police Associations unless that person has been nominated as an alternate member by that Council or, as the case may be, those Associations."

9. REPEAL AND SUBSTITUTION

Section 29 of the Principal Act is repealed and the following substituted:

"29. PAYMENT OF BENEFITS

"(1) All benefits payable under the Scheme shall be paid from the Fund.

"(2) In the case of a benefit which includes a component financed by an employer, an amount equal to that of the component shall be paid to the Fund, immediately before the benefit is paid or as soon as practicable (and in any event within 14 days) thereafter, out of -

- (a) moneys set aside for the purpose of paying the employer-financed component of such benefits; or
- (b) to the extent that those moneys are inadequate, the Consolidated Fund, which is hereby appropriated accordingly."

10. COMMISSIONER MAY RECOVER EMPLOYER-FINANCED BENEFITS ON BEHALF OF TERRITORY

Section 30 of the Principal Act is amended -

- (a) by omitting from subsection (1) "section 29(1), an amount is paid out of moneys set aside for the purpose of paying that amount or the Consolidated Fund to or" and substituting "section 29(2), an amount is paid to the Fund"; and
- (b) by omitting from subsection (2) "out of moneys set aside as referred to in section 29(1) or the Consolidated Fund" and substituting "to the Fund under section 29(2)".

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11. PAYMENT WITHOUT GRANT OF PROBATE, &c.

Section 33 of the Principal Act is amended by inserting after subsection (2) the following:

"(2A) Where an eligible employee or former eligible employee dies, and a benefit of any amount is thereby payable under the Scheme, the Commissioner may if he considers it appropriate to do so for the purpose of alleviating financial hardship pay a part of the benefit to a dependant of the deceased -

- (a) at any time before the production to the Commissioner of probate of the will or letters of administration of the estate; and
- (b) notwithstanding that he has received notice of intention to apply for a grant of probate or letters of administration.

"(2B) The receipt in writing of a person in respect of a payment made to him under subsection (2) or (2A) is, to the extent of the payment, a good discharge of the obligation under this Act of the Commissioner and the Investment Board."

12. RULES

Section 37 of the Principal Act is amended -

- (a) by omitting subsection (3) and substituting the following:

"(3) Before making rules under subsection (2), the Minister shall -

- (a) notify the Review Board in writing of the amendments to the Rules that he proposes to make, and give the Board not less than 21 days to consider them; and
- (b) consider any advice with respect to the proposed amendments given to him either by the Review Board or by individual members of the Review Board."; and

- (b) by omitting subsection (5) and substituting the following:

"(5) Where rules made by the Minister under subsection (2) do not accord with advice in writing given to him under subsection (3) by the Review Board or any individual member of the Review Board, the Minister shall lay a copy of that advice before the Legislative Assembly at the same time as he lays the rules before it under section 63(3)(c) of the *Interpretation Act*."

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13. FUND ACCOUNTS

Section 39(2) of the Principal Act is amended -

- (a) by omitting paragraph (a)(iv) and substituting the following:

"(iv) money payable to the Fund under section 29(2) or, except for contributions, under the Scheme; and"; and

- (b) by omitting from paragraph (b)(i) "(other than employer-financed benefits)".

14. AUDIT AND ANNUAL REPORT

Section 43 of the Principal Act is amended -

- (a) by omitting from subsection (1) "Subject to subsection (2)," and substituting "Subject to subsections (2) and (3),"; and

- (b) by adding after subsection (2) the following:

"(3) Subsection (1) does not require the preparation under section 68 of the *Financial Administration and Audit Act* of financial statements other than statements relating to the Fund."

15. NEW SECTION

The Principal Act is amended by inserting after section 52 the following:

"53. FURTHER TRANSITIONAL PROVISION ON EXTENSION OF SCHEME TO POLICE FORCE

- "(1) A member of the Police Force who -

- (a) was immediately before the commencement of the *Superannuation Amendment Act 1987* an eligible employee within the meaning of the Commonwealth Act; and

- (b) as from that commencement, would but for that status be an eligible employee as defined in section 3,

may, at any time within 6 months after that commencement, apply to the Commissioner by an approved notice in writing to become an eligible employee for the purposes of this Act.

"(2) The Commissioner may, before or after the expiry of the 6 months period referred to in subsection (1), in his absolute discretion, by notice in writing to the applicant, accept or reject an application under subsection (1) with effect on and from a date specified in the notice.

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"(3) Where the Commissioner accepts an application under subsection (1), the applicant becomes an eligible employee for the purposes of this Act on the date specified in the notice under subsection (2) and this Act and the Rules apply accordingly.

"(4) Section 52(4), (5) and (6) apply for the purposes of this section as they apply for the purposes of section 52."

16. NORTHERN TERRITORY GOVERNMENT AND PUBLIC AUTHORITIES' SUPERANNUATION SCHEME RULES

The Schedule to the Principal Act is amended -

- (a) by omitting from the definition of "annual review date" in Rule 1 ", base salary";
- (b) by omitting from Rule 1 the definition of "base salary";
- (c) by omitting from Rule 1 the definition of "contribution salary" and substituting the following:

"'contribution salary' -

- (a) in relation to a member other than a member of the Police Force, means the actual annual rate of salary and approved allowances certified by his employer and accepted by the Commissioner as payable at his entry date or annual review date; and
- (b) in relation to a member of the Police Force, means the sum of -
 - (i) 130% of the actual annual rate of salary certified and accepted as mentioned in paragraph (a); and
 - (ii) the annual amount so certified and accepted of any allowance in the nature of a Northern Territory allowance (by whatever name called);"
- (d) by adding at the end of paragraph (a) of the definition of "prospective membership" in Rule 1 "or, if sooner, the date on which he attains his maximum retirement age";
- (e) by inserting in paragraph (b) of that definition after "paragraph (a)" the words "whose maximum retirement age is 65 years, and";
- (f) by omitting from Rule 4(1) ", base salary" and "revenue" and substituting for the latter "review";

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(g) by inserting after Rule 5 the following:

"5A. FUNDING OF EMPLOYER-FINANCED BENEFITS DURING APPROVED LEAVE WITHOUT PAY

"Where under these Rules the approval of the Commissioner is required for a period of leave without pay to constitute an approved period of leave without pay, it may be a condition of the Commissioner's approval that payments to cover the cost of the employer-financed component of benefits accruing during the period will be made either by the eligible employee or by some other person or body.";

(h) by omitting from Rule 10(1) "section 51" and substituting "section 50";

(j) by omitting from Rule 12(5) "are base salaries but"; and

(k) by inserting after Rule 12(5) the following:

"(5A) In calculating a benefit under subrule (2), there shall be disregarded so much of any reduction in salary as is attributable to a change in the number of hours worked by the member."
