

NORTHERN TERRITORY OF AUSTRALIA
LEGISLATIVE ASSEMBLY MEMBERS' SUPERANNUATION ACT
No. 83 of 1979
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THE NORTHERN TERRITORY OF AUSTRALIA

No. 83 of 1979

AN ACT

To establish a Contributory Superannuation Scheme
for Members of the Legislative Assembly, and
for related purposes

[Assented to 13 July 1979]

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:

PART I - PRELIMINARY

- | | |
|--|----------------|
| 1. This Act may be cited as the <u>Legislative Assembly Members' Superannuation Act 1979</u> . | Short title |
| 2. This Act shall come into operation on a date to be fixed by the Administrator by notice in the <u>Gazette</u> . | Commencement |
| 3. In this Act, unless the contrary intention appears - | Interpretation |
| <p>"additional salary" means that part of a members salary or allowance paid to a member, in addition to his basic salary as a member, in respect of service in the Assembly as the Speaker, a Minister or Leader of the Opposition, or other service in a particular office or in performance of a particular function in respect of which remuneration or an allowance is payable under the <u>Legislative Assembly (Remuneration, Allowances and Entitlements) Act</u>;</p> <p>"Assembly" means the Legislative Assembly;</p> <p>"basic salary" means the basic salary payable to a member and does not include any sitting, electorate, travelling or other allowance payable;</p> <p>"Fund" means the Legislative Assembly Members' Superannuation Fund established under this Act;</p> <p>"member" means a member of the Assembly;</p> | |

Legislative Assembly Members' Superannuation

"Trust" means the Legislative Assembly Members' Superannuation Trust established under this Act;

"Trustee" means a Trustee of the Trust appointed by or under section 12.

PART II - ADMINISTRATION

Division 1 - The Legislative Assembly Members' Superannuation Fund

The Fund

4.(1) There shall be established a fund by the name of the Legislative Assembly Members' Superannuation Fund.

(2) The Fund shall consist of -

- (a) contributions paid by members pursuant to this Act;
- (b) moneys paid to the Fund by the Territory;
- (c) interest and other income earned by the investment of moneys of the Fund; and
- (d) moneys borrowed by the Trust in accordance with this Act.

(3) For the purposes of the Fund, the Trust may borrow money from the Territory and, with the consent of the Minister, from any person.

(4) A liability in respect of moneys borrowed with the consent of the Minister in pursuance of sub-section (3) is hereby guaranteed by the Territory.

(5) A liability incurred by the Territory under a guarantee referred to in sub-section (4) shall be satisfied out of the Consolidated Fund of the Territory which is hereby, to the necessary extent, appropriated accordingly.

(6) The Fund shall be vested in and managed by the Trust.

Provision
of staff

5. The Minister may make available to the Trust the services of an employee, within the meaning of the Public Service Act, for the purpose of assisting it in the exercise of its powers and functions under this Act.

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6. The Trustees may invest the moneys of the Fund in such investments as they think fit.

Investment
of moneys

7.(1) The Trustees shall keep complete and proper accounts of their financial transactions.

Accounts and
audit

(2) In each financial year the accounts of the Trust shall be audited by the Auditor-General and a copy of the accounts, together with a report of the Auditor-General, shall be forwarded to the Minister who shall, within 3 sitting days after they are received by him, cause them to be tabled in the Assembly.

(3) The provisions of Division 2 of Part III of the Financial Administration and Audit Act shall apply to and in relation to an audit conducted under this section.

8.(1) An investigation as to the state and sufficiency of the Fund shall be made as at 30 June 1980 and as at the expiration of each period of 3 years thereafter.

Actuarial
investigation

(2) The investigations referred to in sub-section (1) shall be made by an actuary appointed by the Trust.

(3) When the actuary has completed an investigation of the Fund under this section he shall report to the Trust the result of his investigation and shall certify to the Minister the amount that, in addition to any other moneys payable into the Fund (including any interim advances which, before the completion of the investigation, have been paid into the Fund, or which he has, under sub-section (4), certified should be paid into the Fund) should, in his opinion, be paid into the Fund in respect of each financial year during the period of 25 years following the completion of that investigation to enable the Fund to meet its liabilities.

(4) Where the actuary appointed by the Trust to make an investigation of the Fund is of the opinion that an interim advance to the Fund should be made to enable current liabilities of the Fund to be paid, without realization of investments, before any of the annual amounts certified or to be certified in accordance with sub-section (3) are payable, he may, at any time before the appointment of an actuary to make the next succeeding investigation of the Fund, certify to the Minister the amounts that, in his opinion, should be paid into the Fund by way of interim advances.

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Payment by
Territory

9.(1) The Territory shall pay into the Fund the annual amounts, from time to time, last certified in accordance with section 8(3) and the interim advances certified in accordance with section 8(4).

Source of
payment

10. Payments to be made under this Act by the Territory into the Fund shall be paid from the Consolidated Fund which is hereby, to the necessary extent, appropriated accordingly.

Division 2 - The Trust

The Trust

11.(1) There shall be a body to be known as the Legislative Assembly Members' Superannuation Trust.

(2) The Trust -

(a) is a body corporate;

(b) shall have a common seal; and

(c) is capable, in its corporate name, of acquiring, holding and disposing of real and personal property and of suing and being sued.

(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Trust affixed to a document and shall assume that it was duly affixed.

Constitution
of Trust

12.(1) The Trust shall be constituted by 4 Trustees, namely -

(a) the Speaker;

(b) 2 members of the Assembly; and

(c) the Departmental Head of the Department of the Treasury.

(2) The Trustees referred to in sub-section (1)(b) shall be appointed by the Speaker, one on the recommendation of the Chief Minister, and the other on the recommendation of the Leader of the Opposition.

(3) Unless earlier removed from office, a Trustee referred to in sub-section (2) shall hold office as Trustee until the first sitting day of the Assembly after he ceases to be a member.

Vacancies

13. A vacancy in the office of a Trustee shall not invalidate the proceedings of the Trustees.

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14.(1) The affairs of the Trust shall be conducted at meetings of the Trustees. Control of Trust

(2) At a meeting of the Trustees -

(a) 3 Trustees shall constitute a quorum;

(b) questions arising shall be determined by a majority of the votes of the Trustees present and voting and, in the event of an equality of votes, the Trustee presiding shall have, in addition to his deliberative vote, a casting vote; and

(c) subject to this Act, the Trustees shall determine the procedures to be followed at or in connection with the meeting.

(3) The Speaker shall preside at all meetings of the Trustees at which he is present and, in the absence of the Speaker, the Trustees present shall appoint one of their number to preside at the meeting.

15.(1) The Trust may, in relation to a matter or class of matters, by writing under its common seal, delegate to a Trustee any of its powers or functions under this Act, other than this power of delegation. Delegation

(2) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Trust.

PART III - CONTRIBUTIONS

16.(1) Every member shall contribute to the Fund. Contributions by members

(2) Subject to section 17, the rate of contribution of a member to the Fund shall be -

(a) in the case of a member who is not in receipt of additional salary - 11.5 per cent of his basic salary; and

(b) in the case of a member who is in receipt of additional salary - 11.5 per cent of the aggregate of his basic salary and additional salary.

(3) The contributions payable under this section shall be deducted from every amount of basic salary

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and additional salary payable to the member, and the amount so deducted shall be paid to the Fund.

Election by Ministers, &c. 17. A member who is receiving additional salary may, by notice in writing to the Minister and the Trust, elect to pay contributions on his basic salary only and, while that election remains in force, only those contributions shall be deducted from his salary and paid to the Fund.

PART IV - PENSIONS AND BENEFITS

Interpretation 18. In this Part, unless the contrary intention appears -

"dependent child", in relation to a member or former member, means a child, adopted child, grandchild or stepchild of that member or former member who is unmarried and -

- (a) has not attained the age of 16 years; or
- (b) has attained the age of 16 years but has not attained the age of 25 years, is receiving full-time education at a school, college or university and is primarily dependent on the member or former member for financial support;

"spouse", in relation to a member or former member, means -

- (a) a person who is legally married to the member or former member and who was, at the relevant time, living with him on a permanent and bona fide domestic basis;
- (b) a person who is legally married to the member or former member but who was not living with him on a permanent and bona fide domestic basis at the relevant time, and who, in the opinion of the Trustees, was wholly or substantially dependent upon him at that time;
- (c) a person who is not legally married to the member or former member but who, for a continuous period of not less than 3 years immediately preceding the relevant time, had ordinarily lived with the member or former member as his husband or wife, as the case may be, on a permanent and bona fide domestic basis; or

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- (d) a person who was not legally married to the member or former member but who, for a continuous period of less than 3 years immediately preceding the relevant time, had ordinarily lived with the member or former member as his husband or wife, as the case may be, on a permanent and bona fide domestic basis, and who, in the opinion of the Trustees, was wholly or substantially dependent upon the member or former member at the time,

other than a person who married, or otherwise established the relationship of spouse of, a former member after the former member's retirement and -

- (e) after the former member attained the age of 60 years; and
- (f) less than 5 years before his death.

19.(1) Subject to this Act, a person who has been entitled to a salary as a member - Pensions

- (a) for an aggregate period of 15 years or more and ceases, for any reason, to be a member;
- (b) for an aggregate period of 10 years or 3 full terms of the Assembly (whichever is the lesser) or more but less than 15 years, and ceases to be a member by reason of the dissolution of the Assembly or the effluxion of time and -
 - (i) does not become a candidate at the general election next following that dissolution or that time because of his not securing the support of the political party to which he belonged immediately before his so ceasing to be a member;
 - (ii) becomes a candidate but is defeated at that general election; or
 - (iii) does not stand for election at that general election for reasons which to the Trustees appear good and sufficient; or
- (c) for an aggregate period of 10 years or 3 full terms of the Assembly (whichever is the lesser) or more but less than 15 years, and

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ceases to be a member by reason of his resignation for reasons which to the Trustees appear good and sufficient,

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 the rate ascertained in accordance with the formula

$A \times \frac{B}{C}$, where -

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

(a) 46 per cent of current basic salary; and

(b) 2.4 per cent of current basic salary in respect of each completed year of service as a member in excess of an aggregate period of service of 10 years as a member,

or the rate of 70 per cent 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.

(2) For the purposes of calculating any instalment of pension payable under sub-section (1) at any particular time, "current basic salary" means the basic salary payable to a member of the Assembly at that particular time.

(3) For the purposes of sub-section (1) and subject to section 20, the total salary received by a person shall include, in the case of a person who has made an election under section 26, salary that the person received in respect of any period between 19 October 1974 and the commencement of this Act other than additional salary received during a period in respect of which an election under section 17 has been made.

(4) For the purposes of sub-section (1), the total basic salary in respect of a person entitled to a pension means the total salary received by him as a member excluding any amounts paid to him, from time to time, as a sitting, electorate, travelling or other allowance or any amount paid to him, over and above the amount payable to an ordinary member, by way of

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additional salary or allowance in respect of any higher office held by him in the Assembly or the government.

20. In calculating the amount payable to a person under section 19(1), additional salary shall not be taken into account where that person has, in respect of that additional salary, made an election under section 17 and contributions otherwise payable have been reduced as a consequence of that election.

Additional
salary

21. A person who ceases to be a member otherwise than by reason of his death and who is not entitled to a pension under this Act shall be entitled to have refunded to him his contributions and interest on those contributions at a rate determined by the Trustees.

Refunds to
certain former
members

22.(1) A person who becomes a member after the commencement of this Act may furnish to the Trust a certificate of a registered medical practitioner, who has been approved by the Trust, certifying that the member is not likely by reason of ill health to be rendered incapable, before the expiration of a period of 15 years from the date of the certificate, of performing the duties of a member.

Retirement
through ill
health

(2) Where a member who has furnished a certificate pursuant to sub-section (1), or a person who was a member at the commencement of this Act, satisfies the Trustees that he has ceased to be a member because he has been rendered incapable of being a member by reason of ill health, he shall, subject to sub-section (3), be entitled to a pension calculated under section 19 if he ceases to be a member before the expiration of a period of 15 years and, if he ceases to be a member before the expiration of a period of 10 years he shall, for the purpose of that calculation, be deemed to have served 10 years.

(3) A person who applies to the Trust under this section shall provide the Trust with such medical reports and other evidence as the Trustees may require.

23. Where a former member is entitled to a pension or allowance, by whatever name known, for service in a State legislature or in either House of the Federal Parliament, the amount of annual pension that, but for this section, would be payable to him under this Act shall be reduced by the annual amount of that pension or allowance.

Reduction of
pension in
certain cir-
cumstances

24.(1) On the death of a former member who was receiving a pension under this Part the spouse of that

Spouses' and
dependent

Legislative Assembly Members' Superannuation

childrens'
benefits

former member shall, until death or remarriage, be entitled to an annual pension at the rate of -

- (a) five-eighths of the pension that would have been payable, from time to time, to the former member but for his death or if the former member had, pursuant to section 25(1), converted the whole or a part of his pension entitlement to a lump sum payment, five-eighths of the pension that would have been payable to the former member but for his death if he had not so converted the whole or a part of his pension; or
- (b) 40 per cent per annum of the basic salary from time to time,

whichever is the greater.

(2) On the death of a member who has served for an aggregate period of 10 years or 3 full terms of the Assembly (whichever is the lesser), the spouse of that member shall, until her death or remarriage, be entitled to an annual pension at the rate of -

- (a) five-eighths of the pension that would have been payable, from time to time, to the member but for his death if he had ceased to be a member on the date of his death and was entitled to a pension under section 19; or
- (b) 40 per cent per annum of the basic salary from time to time,

whichever is the greater amount.

(3) On the death of a member before he has served for an aggregate period of 10 years or 3 full terms of the Assembly (whichever is the lesser), a pension shall be paid to his spouse, until her death or remarriage, at the rate of 40 per cent per annum of the basic salary from time to time.

(4) Where a member dies leaving a dependent child but no spouse, or where a former member who was receiving a pension under this Act dies leaving a dependent child but no spouse, or where the spouse of a deceased person who was before his death receiving a pension under this Act dies leaving a dependent child, there shall be payable to such person or persons as the Trustees think fit, an allowance in respect of each such child -

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- (a) of an amount equal to one-quarter of the pension that was payable to the deceased spouse of the deceased member or former member, or that would have been payable to him or her had he or she, as the case may be, survived the deceased member or former member; or
- (b) if there are more dependent children than 4, the amount that would be payable by dividing the amount payable in respect of 4 such children equally between all of them.

(5) In this section "remarriage" includes the establishing of a relationship which, in the opinion of the Trustees, is in the nature of a marriage.

25.(1) Subject to sub-section (4), a former member who is entitled to a pension under section 19 may, within the period of 3 months after ceasing to be a member, by notice in writing to the Trust, elect to convert all or part of his pension entitlement to a lump sum payment determined in accordance with sub-section (2).

Commutation
of pension

(2) A lump sum payment under sub-section (1) shall be -

- (a) if the former member was under the age of 66 years at the time that he ceased to be a member - an amount equal to the annual pension entitlement in respect of which the election was made multiplied by 10; or
- (b) if the former member was of or over the age of 66 years at the time that he ceased to be a member - an amount equal to the annual pension entitlement in respect of which the election was made multiplied by the number derived by deducting from 10, half the difference between the number of years of the age of the member at the time he ceased to be a member and 65.

(3) A former member who makes an election under sub-section (1) shall be entitled to receive a lump sum payment calculated under sub-section (2) and from the date of payment of that lump sum the annual pension payable to that former member shall be reduced by the amount of annual pension in respect of which the election was made.

(4) The provisions of this section do not apply to a person who is entitled to a pension under section 22.

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PART V - MISCELLANEOUS

Service
before com-
mencement of
Act

26. A member who was a member of the Assembly at any time between 19 October 1974 and the commencement of this Act may, by notice in writing to the Trust given within 3 months after the commencement of this Act, elect to have his period of service as a member during that period treated as membership for the purposes of this Act and, upon that election being made, the Trustees shall, for the purposes of sections 5, 17 and 19, treat that period as a period during which that member was entitled to additional salary or a salary as the case may be, and the member shall be liable to pay to the Fund, within 3 years after the date of that election, the contributions that he would have been liable to pay under this Act had this Act been in force at the date of commencement of that period.

Re-election,
&c.

27.(1) Where a person who is receiving a pension under this Act is elected or re-elected, as the case may be, as a member, the payment of his pension shall cease and there shall be paid in lieu thereof such actuarially calculated sum as the Trustees think fit.

(2) A payment referred to in sub-section (1) shall be made out of the Fund within 3 months after the election or re-election, as the case may be, of the person to whom it is to be made.

(3) A person who has received a payment under section 21 and who is re-elected as a member may, by notice in writing to the Trust given within 3 months after the date of his re-election, elect to have his period of service treated as service continuous with his previous period of service and, upon that election being made, the Trustees shall treat that period accordingly and the member shall be liable to repay to the Fund, within 3 years after the date of his re-election, the amount of that payment received.

Holding of
certain
offices

28.(1) Where a person who is receiving or is entitled to receive a pension under this Part -

- (a) becomes a member of the Parliament of the Commonwealth or of any State; or
- (b) accepts an office or place of profit under the Crown (whether in right of the Commonwealth or of any State),

the right of that person to receive a pension under this Act shall be suspended while that person

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continues to be such a member or to be in such office or place of profit, as the case may be.

(2) A person shall not, by reason only of accepting an office as a member of any body corporate or unincorporate constituted by or under any Act or any Commonwealth or State Act in respect of which the only remuneration is fees or allowances or both fees and allowances, have his right to receive a pension suspended under sub-section (1).

29. The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations

[illegible]