

LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

TREASURER

SUPERANNUATION AMENDMENT BILL 2012
SERIAL NO. 195

EXPLANATORY STATEMENT

GENERAL OUTLINE

This Superannuation Amendment Bill 2012 amends: the *Superannuation Act*; the *Legislative Assembly Members' Superannuation Fund Act*; and the *Superannuation Regulations*.

The purpose of the Bill is to restructure and expand the current membership of the Superannuation Trustee Board ("Trustee Board") from six members (three principal members and three alternate members – the "3-member Board") to nine principal members (the "9-member Board"). The 9-member Board consists of a chairperson, a deputy chairperson and seven other members. This will make the Trustee Board more representative of the superannuation funds and schemes it manages.

NOTES ON CLAUSES

PART 1 – PRELIMINARY MATTERS

Clause 1. Short title

This is a formal clause which provides for the citation of the Bill. When passed, the Bill may be referred to as the *Superannuation Amendment Act 2012*.

Part 2 – Amendment of Superannuation Act

Clause 2. Act amended

The Act being amended by this Part is the *Superannuation Act*.

Clause 3. Section 3 amended

Subclause 3(1) removes the definition of “Board” and “Chair” from subsection 3(1) definitions due to the need to redefine and move certain terms that previously applied to both the 3-member Board (as defined in new section 61) and the Review Board.

Subclause 3(2) inserts “appointed Board member” and “Under Treasurer” into subsection 3(1) definitions. An “appointed Board member” has a term of office of 5 years as provided by new section 8F. The term of office under new section 8F(1) does not apply to the Under Treasurer or initial members who become members under the transitional provisions of new section 62 (“initial members”). New subsection 62(9) specifies that the 5 year term of office under 8F(1) does not apply to the initial members.

Deeming provisions (such as new subsection 62(3)(a)) bring initial members under the definition of “appointed Board member” for purposes other than term of office. If an initial member is reappointed under section 8C(1)(b) (after having served their first term as an initial member by virtue of the transitional provisions) they then become an “appointed Board member” with a 5 year term of office from the date of their reappointment.

The Under Treasurer remains a member on the 9-member Board indefinitely. The Under Treasurer is not an “appointed Board member”.

Subclause 3(3) amends the definition of “Trustee Board” to reflect that the Trustee Board has already been established and continues in existence under new section 8A. Having been continued by new section 8A, the Trustee Board is restructured and expanded into its 9-member form by new section 8C.

Clause 4. Part 2, Division 1A inserted

This is a new Division which replaces old Division 3 of Part 2 of the *Superannuation Act* dealing with the establishment, functions, powers and membership of the Trustee Board. New Division 1A implements the main objective of the Bill - to restructure the membership of the Trustee Board to make it more representative of the funds and schemes it manages.

Subdivision 1 of Division 1A provides the establishment, functions and powers of the Trustee Board, repositioned from old Division 3 of the *Superannuation Act*. These provisions are unchanged in substance from the old provisions in sections 11 and 12.

New subsection 8A(1) continues the existing provisions of old section 11. The expression used in the new subsection reflects that the Trustee Board has already been established and continues in existence, whereas the old section 11 stated “The Superannuation Trustee Board is established.”

New subsections 8A(2) and (3) are identical to existing provisions in old section 11(2) and (3). New subsections 8A(2) and (3) state the corporate characteristics of the Trustee Board and the assumption that affixation of the corporate seal was done validly.

New section 8B “Functions and powers of Trustee Board” is substantively identical to the corresponding provisions under old section 12 with some minor modernising adjustments to nomenclature and expression.

Subdivision 2 “Membership of Trustee Board” effects the major change to the structure of the Trustee Board and implements consequential adjustments to the administration of membership conditions applicable to Trustee Board members.

The restructure expands the membership to allow equal representation between employer and employee nominated members for all three funds: the Northern Territory Government and Public Authorities Employees’ Superannuation Fund (NTGPAES Fund), the Legislative Assembly Members’ Superannuation Fund (LAMS Fund) and (prospectively) the Northern Territory Police Supplementary

Benefit Fund (NTPSB Fund). The restructure is intended to ensure that the 9-member Board has a wide diversity of views, skills and experience to institute best governance and investment practices and respond to the changing legislation such as the proposed Commonwealth “Stronger Super” reforms.

New section 8C provides for the new membership structure of the expanded 9-member Board and nomination and appointment of its members (apart from the Under Treasurer who is a member by virtue of office under new subsection 8C(1)(a).

New subsection 8C(1) provides the structure for the membership of the expanded Trustee Board. The new expanded structure consists of nine principal members being a chairperson, a deputy chairperson, the Under Treasurer (defined under section 3 as “the Chief Executive Officer of the agency administering the *Financial Management Act*” - NT Treasury) and six other members.

The Under Treasurer is the LAMS Fund representative. The chairperson and deputy chairperson will be chosen with regard to maintaining equal employer and employee representation. See the explanation of new section 8C(3), below, regarding representation of the six other members.

This expanded 9-member Board structure replaces the interim 3-member Board (plus 3 alternates) structure provided by old section 11A of the Act. The 3-member Board structure consisted of three principal members being a Chair and two other principal members as well as three alternate members being an Acting Chair and two other alternate members.

In essence, the 3-member Board established by old section 11 of the *Superannuation Act* was a continuation, albeit in corporate form, of the old NTGPAES Fund trustee, known as the Superannuation Investment Board (the SIB). The 3-member Board membership structure was put in place at the time the SIB was renamed the Superannuation Trustee Board and established as a body corporate by the *Superannuation Legislation Amendment Act 2010* (the “2010 SLAA”). The 2010 SLAA also brought the LAMS Fund under the trusteeship of the interim 3-member Board.

The interim 3-member Board was therefore representative of the interests of the NTGPAES Fund stakeholders, but not the interests of the two additional funds that the Trustee Board was established to manage - the LAMS Fund and (prospectively) the NTPSB Fund. Although the 2010 SLAA brought the LAMS Fund under the trusteeship of the interim 3-member Board, the 2010 SLAA merely allowed for the prospect of the NTPSB Fund to join the NTGPAES Fund and LAMS Fund under the trusteeship of the Trustee Board. It is planned that soon after the Bill is enacted, the existing NTPSB Fund individual trustees and the Treasurer will execute deeds effecting

- the resignation of the individual trustees;
- the appointment of the 9-member Board as sole trustee; and
- amendments to the existing deed to reflect the change in trustee.

As mentioned, a significant difference between the 3-member Board structure and the expanded 9-member Board structure is that previously two alternate Trustee Board members and an Acting Chair were appointed to act when a principal member or Chair respectively was unavailable (this structure existed for the SIB and was continued through to the interim 3-member Board).

The Bill removes alternate membership; the expanded 9-member Board consists of principal members only. However, the existing alternate members' membership will continue through to the new 9-member Board (see transitional provisions in new Part 7 of the *Superannuation Act*). That is, the existing alternate members as well as the principal members become (most of the) "initial members" of the 9-member Board.

Note: Alternate membership has been retained for the Review Board (see amended Part 2, Division 2 of the *Superannuation Act*).

The principal membership of the 9-member Board is numerous enough to allow a representative quorum (of five) to be met in most circumstances where one or more members are absent from a meeting, obviating the need for alternates.

As a consequence of the removal of the position of Acting Chair, the position of

deputy chair has been created. The difference between deputy chair and the old Acting Chair is that the deputy chair is a principal voting member and also acts as the chairperson when the chairperson is absent from a meeting or otherwise cannot perform the functions or exercise the powers of office, whereas the Acting Chair was, in effect, an alternate to the Chair and was only required to attend meetings and be entitled to vote as the Chair in the Chair's absence. Transitional provisions in the Bill provide that the existing Chair becomes the chairperson and the Acting Chair becomes the deputy chairperson of the 9-member Board.

New subsection 8C(2) provides that the Minister must consult with Unions NT before selecting and appointing a chairperson or a deputy chairperson under new subsections 8C(1)(b)(i) and (ii). Transitional provisions provide the mechanism for initial membership is by deemed appointment; that is, present members including the Chair and Acting Chair become initial members of the 9-member Board by virtue of their existing appointment under the instrument in force at the time of the Bill's assent into law. Further, these initial members are taken to be "appointed Board members" (as defined in new section 3) under the transitional provisions for all purposes other than their initial term of office.

New subsection 8C(3) allows for the nomination of the 6 members appointed by the Minister under new subsection 8C(b)(iii). The proposed nomination process continues the existing collaborative procedure for NTPSBS Trust and the former SIB and allows for equal representation of the schemes.

The members nominated by the Under Treasurer under new section 8C(3)(a) are equivalent to the existing member and alternate member who represent the NTGPAES Fund employer. These existing 2 members were appointed under old sections 11A(1) and 15(1) respectively. Transitional provisions provide that these existing 2 members carry on as members of the 9-member Board by virtue of being present members of the 3-member Board as at commencement ("commencement" is upon the Administrator's assent).

The members nominated by Unions NT under new section 8C(3)(b) are equivalent to the existing member and alternate member who represent the NTGPAES Fund employees. These existing 2 members were appointed under

old sections 11A(2)(b) and 15(1) respectively. Transitional provisions provide that these existing two members carry on as members of the 9-member Board by virtue of being present members of the 3-member Board as at commencement.

The member nominated by the Commissioner of Police under new section 8C(3)(c) is a new member who represents the NTPSB Fund employer. This member was appointed under clause 4(2) of the NTPSBS Trust Deed (as amended and consolidated) as one of three trustees of the NTPSB Fund. Transitional provisions specify that this present NTPSB Fund (individual) trustee becomes a member of the 9-member Board by virtue of being a present trustee of the NTPSB Fund as at commencement.

The member nominated by the Police Association under new section 8C(3)(d) is a new member who represents the NTPSB Fund employees. This member was appointed under clause 4(2) of the NTPSBS Trust Deed (as amended) as one of the three trustees of the NTPSB Fund. Transitional provisions specify that this present NTPSB Fund (individual) trustee becomes a member of the 9-member Board by virtue of being a present trustee as at commencement.

New section 8C(4) provides that a person must be a resident of the Territory to be eligible for appointment to the 9-member Board. Further, new section 8K(2)(b) means they must remain residents of the Territory to continue as members of the Trustee Board. If the member ceases to be a resident of the Territory the Minister must terminate their membership. This also applies to the initial members of the 9-member Board by virtue of the transitional provisions of new Part 7 of the *Superannuation Act*.

New section 8D obliges the Minister to review and, when appropriate, amend the membership structure of the Trustee Board. This is necessary because the initial structure will become unrepresentative of the Trustee Board's functions over time as particular fund membership and fund balances decline at different rates relative to each fund.

New subsection 8D(1) provides the timing of the review.

New subsection 8D(2) provides that the Minister should have regard to the guiding principles of proportionality and equal representation when carrying out the review. New subsection 8D(2)(a) speaks to proportionality by considering the relative size of a particular scheme and fund as measured by the number of scheme members and fund assets. New subsection 8D(2)(b) speaks to equal representation by considering the balance between employer and employee representatives from each particular scheme.

New subsection 8D(3) specifies that the Minister must obtain and consider actuarial advice regarding the relative size of each scheme and fund as detailed in new subsection 8D(2) when carrying out the review. It also provides that the Minister must consult with the employer and employee representatives listed under 8D(3)(b).

New subsection 8D(4) provides that if the Minister, guided by the principles of proportionality and equal representation and having taken the advice of an actuary and consulted with the respective representatives listed in 8D(3)(b), has formed the opinion that the structure of the Trustee Board is no longer appropriate, the Minister must take action to ensure an appropriate representative structure is put into effect by amending section 8C “Membership of Trustee Board”.

New subsection 8D(5) defines which “scheme[s]” the Minister is to have regard to when reviewing the Trustee Board membership structure. NTGPAS scheme is specifically identified, whereas the LAMS scheme is included under the general definition of 8D(5)(b) being “any other superannuation scheme in relation to which the Trustee Board exercises powers or performs functions.” It is intended that the NTPSBS will also be included under this general definition when its governing deed is amended after commencement to nominate the Trustee Board as trustee to replace the present individual NTPSB Fund trustees.

New section 8E is a modified version of existing provisions in old section 14 dealing with the situation where Unions NT or the Police Association were invited, but failed, to nominate a Trustee Board member. The only substantive difference between the old and new provisions is that the new provisions allow the Commissioner of Superannuation to call for nominations instead of the

Minister. This change is purely in the interests of administrative efficiency.

New subsection 8E(1) provides that the process dealing with a failure to nominate will come into effect if the Commissioner of Superannuation's request to nominate is in writing and no nomination is forthcoming within 28 days. The request to nominate must be for a nominee (or nominees) who is a resident of the Territory and

- a member of a public sector union nominated by Unions NT (under 8C(3)(b)), or
- a member of the Police Association nominated by the Police Association (under 8C(3)(d)), or
- a person nominated by the Commissioner of Police (under 8C(3)(c)).

New subsection 8E(2) provides that, if no nomination is forthcoming within the 28 day period in accordance with the terms of 8E(1), the Minister may appoint a person selected by the Minister.

New subsection 8E(3) provides that the person selected and appointed by the Minister under subsection 8E(2) must be a resident of the Territory, but need not be a member of a public sector union or a member of the Police Association.

New subsection 8E(4) deems that a person selected and appointed by the Minister due to a failure of the nominator to nominate as requested is deemed to be nominated by the nominator under the appropriate section. This maintains the integrity and intended effect of other provisions which refer to (or invoke as a subject) a Trustee Board member (putative or actual) by reference to the subsection under which they were nominated to the Trustee Board. See, for example, new section 8N "Quorum" which refers to members "nominated under section 8C(3)(a) or (c)". A member selected and appointed by the Minister under section 8E will be deemed to be nominated under the appropriate subsection for the purpose of the section in question, in this example, forming a quorum.

New subsection 8E(5) defines "nominator" for the purpose of the section as

being any of Unions NT, the Commissioner of Police or the Police Association.

New section 8F corresponds to, but is substantially different from, old section 17. The term “appointed Board member” is used to differentiate the 5 year term of office under this section from the term of office of the initial 9-member Board member provided by the transitional provisions under new Part 7 of the *Superannuation Act*. Also, due to the removal of the old alternate membership structure, the expression has been simplified. It has been specified that an appointed Board member (which includes initial members because they are taken to be included by the transitional provisions) may be reappointed.

New subsection 8G corresponds to old section 18. It is intended that both the Minister and the Trustee Board have a broad discretion as to the granting of leave and on what conditions (if any).

New subsection 8G(1) provides that, as previously, only the Minister may grant a leave of absence to the chairperson or deputy chairperson. Conditions may be imposed on the grant of leave as determined by the Minister.

New subsection 8G(2) provides that the Trustee Board will now be authorised to approve a leave of absence of appointed Board members (other than the chairperson and deputy Chairperson). Conditions may be imposed on the grant of leave as determined by the Trustee Board.

New section 8H corresponds to old subsection 16(3) (prior to amendment), however a major difference is that the deputy chairperson is not an “alternate” and so, unlike the old “Acting Chair”, is required to attend all meetings in his/her capacity as full member. The deputy chairperson acts as chairperson when the chairperson is absent from a meeting or otherwise cannot perform the functions or exercise the powers of office, or if the office of chairperson is vacant. This includes presiding over meetings as provided by new section 8P and having a casting vote under new section 8Q(2).

New section 8J corresponds to old section 19. It provides that a member’s office may be vacated by resignation or termination by the Minister under new section 8K.

New section 8K corresponds to old section 20 prior to amendment. It deals with the conditions that must or may lead to termination by the Minister of a member's appointment. The section applies to initial Board members by virtue of deeming provisions in the transitional provisions.

New subsection 8K(1) provides the grounds on which the Minister may (as opposed to must) terminate the Board member's appointment. There are no specific guiding criteria that the Minister must refer to in order to be satisfied that a circumstance or state exists, and therefore it cannot be implied that any particular factual basis must be met before the Minister is satisfied, other than that the Minister was satisfied on a reasonable basis.

The specific grounds carried on from old section 20(1) are misbehaviour and physical or mental incapacity. New subparagraph 8K(1)(c) makes non-disclosure of a personal interest grounds for possible (not mandatory) termination of the member's appointment. Previously, non-disclosure was not specified as grounds for termination.

New subsection 8K(2) provides the grounds on which the Minister must terminate a member's appointment. The grounds are any of the following:

- unapproved absence from 3 consecutive meetings
- ceasing to be a resident of the Territory
- conviction and imprisonment for a serious offence
- bankruptcy or entering creditor-debtor financial arrangements because of personal insolvency.

New subsection 8K(3) provides that notice of termination must be given in writing.

New Subdivision 3 corresponds to old sections 23, 24 and 25 in old Part 2 Division 4 "General". The old Division 4 applied to both the 3-member Board and the Review Board. Due to the removal of the "alternate" membership structure from the Trustee Board, old provisions which previously applied to both the 3-member Board and Review Board have been moved (with

consequential amendments) to each respective board's Division: Division 1A "Superannuation Trustee Board" and Division 2 "Review Board". The old Division 4 is subsumed in Division 2 which has been amended to apply only to the Review Board.

New section 8L corresponds to old subsection 22(5)(c). It provides that the 9-member Board determines its own procedures.

New section 8M corresponds to old section 22 with the expression modernised.

New section 8N corresponds to old section 22(5). The Quorum for the 3-member Board was 3 members. The quorum for the 9-member Board has been increased to 5 members and must include the following 3 members:

- the chairperson or deputy chairperson, and
- an employer representative under 8C(3)(a) or (c) (either a NTGPASS or NTPSBS employer representative); and
- an employee representative under 8C(3)(b) or (d) (either a NTGPASS or NTPSBS employee representative).

New section 8P corresponds to old subsection 22(3) and (4) and provides that the chairperson or, if the chairperson is absent, the deputy chairperson, must preside over meetings.

New subsection 8Q(1) provides that decisions of the 9-member Board are to be determined by the majority of the voting members.

New subsection 8Q(2) provides that if the votes cast are even, the presiding member (either the chairperson or deputy chairperson) has the casting vote.

New subsection 8R corresponds to old section 22(6) and provides that accurate records of the Trustee Board meetings must be kept.

New subsection 8S is a modernised and amended version of old section 21(1), with the old expression "monetary interest" replaced by the wider modern expression "material personal interest".

New subsection 8S(1) provides the parameters for what a member may have a “material personal interest” in. The funds and schemes over which the Trustee Board currently exercises powers are the NTGPAES Fund and the LAMS Fund and Scheme. It is planned that the NTPSB Scheme and Fund will come under this section soon after commencement.

New subsection 8S(2) provides the basic requirement that notice must be given of a material personal interest. Procedural details for the giving of notice are not provided, however it is intended that the notice be given and documented in a manner sufficient to prove that notice has been given to all other Trustee Board members.

New subsection 8S(3)(a) provides that membership of the NTGPASS or other such scheme which the Trustee Board exercises power over is not a material personal interest for the purpose of the disclosure provisions. 8S(3)(b) provides that it is not necessary to disclose an interest shared in common with 25 or more other people.

New subsection 8S(4) provides some requirements for the content of the notice required by new subsection 8S(2)

New subsection 8S(5) provides that the giving of the notice must be recorded in the minutes of the Board meeting at which the notice is given. It is intended that if notice is given prior to a meeting, the giving of the notice will be recorded in the minutes of that meeting.

New section 8T corresponds to old section 21(2). It provides the effect of a personal interest on the Trustee Board’s decision-making process.

Subdivision 4 “General matters” pertains to the Trustee Board. The provisions correspond to existing provisions with modernising amendments.

New section 8U corresponds to old section 23. New section 8U is substantively the same as the old section 23. It provides that an act or decision remains valid despite a defect in the appointment of an appointed Board member or if there is

a vacancy in the office of an appointed Board member.

New section 8V corresponds to old section 24. The expression and structure of the new section have been modernised.

New subsection 8V(1) provides protection for persons exercising powers and functions in good faith as an appointed Board member. It is intended that this protection extends to persons who would be an appointed Board member but for a defect in relation to their appointment (putative Board members), providing the defect does not involve dishonesty, prior knowledge of the defect, or other lack of good faith.

This section also applies to persons who were appointed Board members (or putative Board members) for acts done or instigated while they were appointed Board members.

New subsection 8V(2) additionally provides that persons, being appointed Board members or putative Board members as above, are not liable for acts or omissions of the Board done under the *Superannuation Act*.

New subsection 8V(3) provides that any liability accruing to the Territory as a result of an act described in subsections (1) and (2) is not affected by the statutory protection given by this section.

New subsection 8V(4) defines the terms “exercise” and “performance”. It is intended that the good faith purported exercise or performance of a purported power or function is protected from liability. A defect rendering the good faith exercise or performance “purported” (for example, a defect in the appointment of a member) does not affect this protection from liability. The requirement of “good faith” includes the person having no knowledge that the defect rendered the exercise of the power or performance of the function “purported”.

New section 8W provides that Trustee Board members are not subject to direction. This includes the member representing the LAMS Fund (the Under Treasurer) while acting in his or her capacity as Trustee Board member.

Clause 5. Part 2, Division 3 repealed

Clause 5 removes Part 2, Division 3 “Superannuation Trustee Board” as a consequence of moving the provisions that apply to the 9-member Board to new Division 1A “Superannuation Trustee Board”. This was done to separate the Trustee Board provisions from those that apply to the Review Board.

Clause 6. Part 2 Division 4 heading omitted

This clause removes the heading “General” as a consequence of the removal of general provisions that previously applied to both the 3-member Board and the Review Board. These general provisions have been amended to continue to apply to the Review Board. Some provisions applicable to the 9-member Board such as old section 21 “Disclosure of interest” have been copied to Division 1A with some consequential amendments where necessary.

Clause 7. Section 13 repealed

Section 13 contained definitions of general application to both the 3-member Board and the Review Board. As a consequence of the separation of provisions of which previously applied to both boards, and particularly due to the removal of the alternate structure for the 9-member Board, the definition of “member” has been removed.

Part 7 inserted

Clause 8 inserts transitional provisions to deal with the appointment of the initial nine members of the 9-member Board.

New section 61 “Definitions” differentiates between the old “3-member Board” and the new “9-member Board” by reference to old section 11 (that established the Trustee Board in its 3-member structure) and new section 8A that continues the Trustee Board, but in a 9-member structure, defined as the “9-member Board”. As such, there is no change in trustee effected by the Bill.

The definition of “commencement” refers to the commencement of section 4 of

the *Superannuation Amendment Act 2012* which inserts Division 1A “Superannuation Trustee Board” into the *Superannuation Act*. Section 4 of the *Superannuation Amendment Act 2012* will commence on the Administrator’s assent. There has not been any provision made for commencement in the Bill and therefore the *Superannuation Amendment Act 2012* will, according to the *Interpretation Act*, commence in its entirety on the Administrator’s assent of the proposed law.

The definition of “police scheme trust deed” refers to the original trust deed executed on 15 June 1984. This deed has been subsequently amended several times and an authorised consolidated version of the deed as amended up to the change in trustee exists. There will also be an amended and consolidated version of the deed that (it is intended) will come into effect contemporaneously with the resignation of the individual police trustees and appointment of the 9-member Board as trustee in their stead.

New subsection 62 provides the mechanism for initial membership of the 9-member Board (apart from the Under Treasurer who is an *ex officio* permanent member under new section 8C(1)(a)). This mechanism is by deemed appointment; that is, present members of the 3-member Board including the Chair and Acting Chair become initial members of the 9-member Board by virtue of their existing appointment under the instrument in force at the time of commencement (being upon the Administrator’s assent of the proposed law.) Further, these initial members are taken to be “appointed Board members” (as defined in new section 3) under the transitional provisions for all purposes other than their initial term of office.

Subsection 62(1) provides that the existing Chair of the 3-member Board becomes the initial chairperson of the 9-member Board. The chairperson’s initial term of office under this subsection will be up until the expiry of her existing term as Chair of the 3-member Board. The chairperson’s subsequent term of office is 5 years as provided by new section 8F. The initial chairperson is deemed to be an “appointed Board member” as defined in new section 3 (for all purposes other than her initial term of office – see new section 62(9)) by virtue of new subsection 62(1)(a).

Subsection 62(2) provides that the existing Acting Chair of the 3-member Board becomes the initial deputy chairperson of the 9-member Board. The deputy chair's initial term of office is stated to be 5 years from appointment under old section 16(2). The term of appointment for the Acting Chair used to be linked to the term of office of the Chair because of the old alternate membership structure. Under old section 17(2), the Acting Chair's appointment would terminate if the Chair was reappointed or a successor to the Chair was appointed. The term of office for members of the 9-member Board is not linked to the terms of other members, and so the deputy chair's initial term of office is for 5 years from the date of their previous appointment to the 3-member Board.

Subsection 62(3) provides that the existing member of the 3-member Board who was nominated by Unions NT (the NTGPAES Fund employee representative who was not an alternate member) to the 3-member Board becomes one of the two initial members deemed to be nominated by Unions NT under 8C(3)(b). The initial term of office for this member is until expiry of his or her existing term of appointment to the 3-member Board.

New subsection 62(4) provides that the existing alternate member who was nominated by Unions NT (the NTGPAES Fund employee representative who was an alternate member) to the 3-member Board becomes one of two initial members (the other being appointed under 62(3)) deemed to be nominated by Unions NT to the 9-member board under 8C(3)(b). As explained for 62(2) above, unlike alternate members in the 3-member Board, the term of office for members of the 9-member Board is not linked to the terms of other members, and so the initial term of office for this member is for 5 years from their previous appointment.

New subsection 62(5) provides that the existing member of the 3-member Board (the NTGPAES Fund employer representative who was not an alternate member) becomes one of the two initial members deemed to be nominated by the Under Treasurer under 8C(3)(a). The initial term of office for this member is until the expiry of his or her existing term of appointment to the 3-member Board.

New subsection 62(6) provides that the existing alternate member (the NTGPAES Fund employee representative who was an alternate member) to the 3-member Board becomes one of two initial members (the other being appointed under 62(5)) deemed to be nominated by the Under Treasurer to the 9-member Board under 8C(3)(a). As explained for 62(2) above, unlike alternate members in the 3-member Board, the term of office for members of the 9-member Board is not linked to the terms of other members, and so this member's initial term of office is for 5 years from their previous date of appointment to the 3-member Board.

New subsection 62(7) provides that the existing individual trustee of the NTPSB Fund who was the Police Association (employee) representative under clause 4(2) of the NTPSBS Trust Deed becomes one of the two NTPSB Fund representative members. This member is deemed to be nominated under section 8C(3)(d) and appointed to the 9-member Board under 8C(1)(b)(iii). The initial term of office for this member is until expiry of his existing term, which is stated in the Trust Deed to be three years from previous appointment.

New subsection 62(8) provides that the existing individual trustee of the NTPSB Fund who was the employer representative nominated by the Commissioner of Police under clause 4(2) of the NTPSBS Trust Deed becomes one of the two NTPSB Fund representative members. This member is deemed to be nominated under new subsection 8C(3)(c) and appointed to the 9-member Board under 8C(1)(b)(iii). Under the Trust Deed this member's term of appointment was indefinite. However, the initial term of office for this member is for 5 years from commencement.

The remaining individual trustee of the existing three individual NTPSBS trustees is the NT Treasury representative nominated by the Under Treasurer. This individual trustee does not become a member of the 9-member Board.

New subsection 62(9) provides that the term of office of the initial 9-member Board members (apart from the Under-Treasurer) is provided under section 62, not under section 8F(1). The remainder of section 8F (reappointment and vacating office provisions) applies to the initial members as deemed "appointed Board members". After reappointment or appointment of subsequent Board

members all of section 8F will apply to those “appointed Board members”.

New section 63 provides that decisions (or other things with an effect) made by the 3-member Board continue in effect under the 9-member Board as if the decision (or other thing) was made by the 9-member Board.

Clause 8. Act further amended

Clause 9 cites Schedule 1 which makes consequential amendments as a result of the substantive changes to the *Superannuation Act* explained above. The amendments mainly redefine and move certain terms that previously applied to both the 3-member Board and the Review Board.

Part 3 – Amendment of other laws

Clause 9. Other laws amended

Clause 10 cites Schedule 2 as containing other laws to be amended. Schedule 2 lists minor consequential amendments to the *Legislative Assembly Members’ Superannuation Fund Act* and the *Superannuation Regulations*. These amendments are required due to the restructuring of the Trustee Board and consequential renumbering of provisions in the *Superannuation Act*.