

NORTHERN TERRITORY OF AUSTRALIA

FINANCIAL MANAGEMENT AMENDMENT REGULATIONS 2020

Subordinate Legislation No. 10 of 2020

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Subordinate Legislation No. 10 of 2020*

Financial Management Amendment Regulations 2020

I, Vicki Susan O'Halloran, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Financial Management Act 1995*.

Dated 9 June 2020

V. S. O' Halloran
Administrator

By Her Honour's Command

N. K. Fyles
Attorney-General and Minister for Justice
acting for
Treasurer

* Notified in the *Northern Territory Government Gazette* on 10 June 2020.

1 Title

These Regulations may be cited as the *Financial Management Amendment Regulations 2020*.

2 Commencement

These Regulations commence on the day on which they are notified in the *Gazette*.

3 Regulations amended

These Regulations amend the *Financial Management Regulations 1995*.

4 Regulation 3 amended (Interpretation)

(1) Regulation 3, definitions **employee** and **overpayment**

omit

(2) Regulation 3

insert

overpayment means an amount specified in regulation 5(2).

5 Regulation 5 replaced

Regulation 5

repeal, insert

5 Recovery of overpayments

(1) The Territory and an Agency must recover any overpayment made by the Territory or the Agency to the following:

- (a) an employee;
- (b) a person who holds office under an Act and is remunerated by the Territory or the Agency;
- (c) a person who met the criteria of paragraph (a) or (b) when the overpayment was made;
- (d) a superannuation fund for the benefit of a person specified in paragraph (a), (b) or (c);

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- (e) a third party for the benefit of, or on behalf of, a person specified in paragraph (a), (b) or (c) in accordance with a direction from or agreement with the person.
- (2) The following amounts paid by the Territory or an Agency are taken to be overpayments:
- (a) a salary, allowance or reimbursement payment to which a person is not entitled;
 - (b) a benefit for which a person is not eligible;
 - (c) a contribution to a superannuation fund in excess of the amount to which a person is entitled;
 - (d) a payment to a third party that a person is not entitled to have paid;
 - (e) any other amount paid in error that benefits a person.
- (3) If an overpayment is not repaid as soon as practicable, the overpayment must be recovered from the person specified in subregulation (1)(a), (b) or (c) by deducting or withholding any amount or entitlement due to the person from the Territory or Agency.
- (4) A deduction from a person's gross salary under subregulation (3) must not exceed 10% of the gross salary except with the written consent of the person.
- (5) Before an amount or entitlement is deducted or withheld under subregulation (3), the person must be given:
- (a) written notice of details of the overpayment and the amount proposed to be deducted or withheld; and
 - (b) a reasonable opportunity to propose an alternative arrangement to repay the overpayment.
- (6) The Accountable Officer for an Agency, or the Treasurer, may enter into an alternative arrangement with a person to repay an overpayment if:
- (a) the arrangement is reasonable in the circumstances; and
 - (b) the risk of not being able to recover the entire overpayment is low; and

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- (c) the arrangement would not result in any added costs to the Territory or Agency.

Example for subregulation (6)

An employee who is having financial difficulties could be allowed a longer payment plan with lower individual deductions, as long as the plan does not result in additional fringe benefits tax.

- (7) Despite subregulations (4) to (6), if recovering an overpayment from a person on the cessation of the person's employment or office, any amount or entitlement due to the person must be first used to repay the overpayment.

Example for subregulation (7)

When an employee who received an overpayment leaves the public service, the person's long service leave must be used to pay off the overpayment. Any amount left over is then paid out to the employee.

6 Regulation 7 replaced

Regulation 7

repeal, insert

7 Other right of recovery

These Regulations do not affect any other right that the Territory or an Agency may have to recover an amount from a person.

7 Repeal of Regulations

These Regulations are repealed on the day after they commence.