



NORTHERN TERRITORY OF AUSTRALIA

NORTHERN TERRITORY SUPPLEMENTARY SUPERANNUATION
SCHEME

- INSTRUMENT IN WRITING

Consolidated Working Document Prepared by the Northern Territory
Superannuation Office

As in force from 1 January 2011

Last updated 1 January 2011

WHEREAS the Northern Territory of Australia desires to establish a scheme to provide superannuation benefits supplemental to the benefits provided by certain other superannuation schemes.

NOW WHEREFOR

The NORTHERN TERRITORY OF AUSTRALIA hereby establishes the scheme set out in the Schedule hereto.

SCHEDULE

1. NAME

The scheme shall be known as the Northern Territory Supplementary Superannuation Scheme.

2. DATE OF COMMENCEMENT

The date of commencement of the scheme shall be 1 January 1989.

3. DEFINITIONS

Benefit

A benefit calculated in accordance with the following formula :

$$\frac{\text{Actual days}}{365} \times 3\% \times \text{Supplementary Superannuation Salary} \times \text{Period of full-time equivalent service since 01.10.88,}$$

Less the amount, if any, of the balance of the eligible employee's surcharge debt account.

Provided that there shall be a minimum benefit of \$50 per completed month of full-time equivalent service.

Commissioner

The Commissioner of Superannuation for the time being appointed pursuant to Section 4 of the Superannuation Act.

Dependant

In relation to an eligible employee or former eligible employee, means a spouse, widow, widower, child, adopted child or ex-nuptial child of an eligible employee or former eligible employee or a person who, in the opinion of the Commissioner, is at the relevant date (or in the case of a deceased person was at his death) wholly or partially dependant on the eligible employee or former eligible employee or who has or had at the relevant date a legal right to look to the eligible employee or former eligible employee for support.

De facto partner

of a person, means a person who is in a de facto relationship with the person.

De facto relationship For this scheme, 2 persons are in a de facto relationship if they are not married but have a marriage-like relationship.

Note: For determining whether 2 persons are in a de facto relationship, the Commissioner will have regard to the matters set out in section 3A(2) and (3) of the De Facto Relationships Act.

Eligible Employees All employees of the Territory, employees or officers of the Northern Territory Public Service, the Northern Territory Teaching Service, the Northern Territory Police Force; or Territory Public Authorities whether employed on a full-time, part-time, limited tenure, contract or casual basis who have completed the Qualifying Period of Service other than :

- (a) an employee entitled to receive a benefit under the Tertiary Education Superannuation Scheme (TESS); or
- (b) an employee entitled to receive a benefit from another superannuation arrangement which, in the opinion of the Commissioner, is of a comparable nature to this scheme and declared in writing by the Commissioner; or
- (c) an employee or an employee belonging to a class of employees declared in writing by the Commissioner not to be an eligible employee or eligible employees for the purposes of the scheme; or
- (d) a person employed in or appointed to, a statutory office (unless the office is declared in writing by the Commissioner not to be an office for the purposes of this paragraph), who is not -
 - (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; or
- (e) an employee who has elected to take a benefit under clause 6(4).

Gainful Employment Engagement in any employment, occupation, vocation, profession, trade or business full-time or part-time for remuneration or other reward in money or money's worth.

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| <u>Invalidity</u> | Shall be an assessment by the Commissioner, after considering medical and other relevant evidence, that the eligible employee is, or may be, unlikely ever to be able to work again in a job for which the eligible employee is, or may be, reasonably qualified by education, training or experience. |
| <u>NTGPAS Scheme</u> | Has the same meaning as in the Superannuation Act. |
| <u>Period of Full-time Equivalent Service</u> | Means the period of continuous employment (after converting any periods of part-time employment to a full-time basis) of an eligible employee but does not include any periods of leave without pay which are not recognised for long service leave entitlements. Employment shall be taken to be continuous notwithstanding that there may be an interval when an eligible employee transfers from one employer covered by the scheme to another covered by the scheme. The length of the interval shall be such period deemed reasonable in all the circumstances by the Commissioner. |
| <u>Preservation Limit</u> | Means \$200 or such other amount as is declared in writing from time to time by the Commissioner. |
| <u>Qualifying Service Period</u> | 3 months continuous employment notwithstanding that this may be undertaken otherwise than on a full-time basis. Continuous employment prior to the commencement date of the scheme shall be taken into account in the calculation of the qualifying period. |
| <u>Spouse</u> | In relation to an eligible employee or former eligible employee, means- <ul style="list-style-type: none"> (a) a person to whom the person is validly married under the <i>Marriage Act 1961</i> of the Commonwealth; or (b) a de facto partner; or (c) if the person is an Aboriginal or Torres Strait Islander – an Aboriginal or Torres Strait Islander to whom the person is married according to the customs and traditions of the particular community of Aboriginals or Torres Strait Islanders with which either person identifies. |

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| <u>Supplementary Superannuation Salary</u> | Is equivalent to the contribution salary which would be calculated under the Superannuation Act if the eligible employee's last day of duty were his entry date under the Superannuation Act. Provided that <ul style="list-style-type: none"> (i) where an eligible employee is employed on a part-time or casual basis on his last day of duty, his Supplementary Superannuation Salary shall be expressed on a full-time equivalent basis; and (ii) where an eligible employee has suffered a reduction in salary due to redeployment, the salary will be based on the salary and approved allowances payable immediately before such reduction. |
| <u>Superannuation Act</u> | Means the Northern Territory Superannuation Act. |
| <u>Superannuation contributions surcharge</u> | Means the superannuation contributions surcharge imposed under the Surcharge Act. |
| <u>Surcharge Act</u> | Means the Superannuation Contributions Tax Imposition Act 1997 of the Commonwealth and includes regulations under that Act. |
| <u>Surcharge Collection Act</u> | Means the Superannuation Contributions Tax (Assessment and Collection) Act 1997 of the Commonwealth and includes regulations under that Act. |
| <u>Territory Public Authorities</u> | The public authorities listed in regulations made under the Superannuation Act. |

4. MANAGEMENT AND ADMINISTRATION

- (1) The Commissioner shall be responsible for the management and administration of the scheme and shall make all payments on behalf of the Territory under the scheme.
- (2) Subject to guidelines as determined by the Treasurer from time to time, the scheme shall be administered and managed using the personnel and facilities of the Northern Territory Treasury and the cost of administering the scheme shall be borne by the Territory.
- (3) The Commissioner shall have the power to retain on behalf of the Territory the services of professional advisers and managers, whether persons, firms or companies, in any matter relating to the management or administration of the scheme.

4A. SCHEME TO COMPLY WITH SUPERANNUATION SURCHARGE LAWS AND AGREEMENTS WITH COMMONWEALTH

- (1) The scheme is to be administered in accordance with -
 - (a) the Surcharge Act and the Surcharge Collection Act; and
 - (b) a written agreement entered into by the Territory and the Commonwealth relating to exempt public sector superannuation schemes within the meaning of section 10 of the Superannuation Industry (Supervision) Act 1993 of the Commonwealth.
- (2) If a provision of this Scheme is inconsistent with a provision of the Surcharge Act or the Surcharge Collection Act, the provision of this Scheme is to be taken to have been complied with if the provision of the Surcharge Act or the Surcharge Collection Act, as the case may be, has been complied with.

4B. SURCHARGE DEBT ACCOUNTS

- (1) The Commissioner must establish and maintain for the purposes of section 16 of the Surcharge Collection Act a surcharge debt account within the accounts of the Scheme for each eligible employee in relation to whom superannuation contributions surcharge is paid or payable by the Commissioner.
- (2) The Commissioner must debit to the surcharge debt account of an eligible employee -
 - (a) superannuation contributions surcharge paid or payable by the Commissioner in respect of the eligible employee; and
 - (b) interest paid or payable under the Surcharge Collection Act on the amount by which the account is in debit.
- (3) The Commissioner must credit to the surcharge debt account of an eligible employee an amount paid under clause 4C by the eligible employee.

4C. ADVANCE PAYMENTS TO REDUCE SUPERANNUATION CONTRIBUTIONS SURCHARGE

- (1) An eligible employee may, on lodging an election form with the Commissioner, pay an amount to the Scheme for the purpose of reducing the amount by which his or her surcharge debt account is in debit.
- (2) A payment under this clause may be made on a periodic or single payment basis.
- (3) An election form lodged under subclause (2) is to be in the form approved by the Commissioner and is to specify the amount to be paid and the manner of payment.
- (4) An eligible employee may, on lodging with the Commissioner an election form in the form approved by the Commissioner -
 - (a) vary in accordance with the form the amount or manner of payment of periodic payments; or
 - (b) revoke an election under this clause.

5. PAYMENTS

Payments made from time by the Territory under this scheme shall be from monies made available from the Consolidated Revenue Account by appropriation or from a trust account kept under the Financial Management Act.

6. BENEFITS

- (1) The Territory shall pay to an eligible employee a benefit in the following circumstances :
 - (a) On an eligible employee attaining the age of 55 years or more and in the opinion of the Commissioner retiring from Gainful Employment.
 - (b) On an eligible employee ceasing to be employed by reason of invalidity.
 - (c) On an eligible employee ceasing to be employed and the benefit being less than the Preservation Limit.
 - (d) On an eligible employee ceasing to be employed and in such other special or exceptional circumstances as the Commissioner may, in his absolute discretion, determine.
- (2) (a) On the death of an eligible employee the Territory shall, at the discretion of the Commissioner, pay the benefit either to the personal representatives of the eligible employee on production to the Commissioner of probate of the will or letters of the administration of the estate or to a dependant or dependants of the deceased eligible employee.

- (b) Where
- (i) the production to the Commissioner of probate of the will, or letters of administration of the estate, has not been arranged;
 - (ii) the Commissioner has not, within 3 months after the death of the eligible employee, received notice of intention to apply for a grant of probate of the will, or the letters of administration of the estate, of the deceased; and
 - (iii) at the time of the death of the eligible employee, there was no person dependent on him

the Commissioner may, after paying the funeral expenses of the deceased or reimbursing a person who has paid those expenses, pay the balance to some other person.

- (3) (a) Where an eligible employee ceases to be employed in circumstances not specified in (1) or (2) above, the Territory shall, with the consent in writing of the eligible employee, pay the benefit to
- (i) another superannuation scheme or fund for the benefit of the eligible employee; or
 - (iii) a recognised organisation for the purpose of the provision of a deferred annuity for an eligible employee and/or his or her dependants.
- (b) If no such consent, in writing, is received by the Commissioner within two (2) months of the eligible employee ceasing to be employed, the Commissioner may at his discretion pay the benefit to the Northern Territory Government and Public Authorities Employees' Superannuation Fund on behalf of the eligible employee.
- (c) The Commissioner shall, when paying any benefits as aforesaid, require that the Trustee or other administrator of the said superannuation scheme or fund or recognised organisations undertake that the said benefit shall not be paid to or in respect of the eligible employee prior to the date on which it would be paid to or in respect of the eligible employee under the provisions of this scheme.
- (4) (a) An eligible employee who has attained the preservation age (as defined in the Superannuation Industry (Supervision) Regulations 1994 (Cth)) may, in a form approved by the Commissioner, elect to take a benefit under this subclause.
- (b) If an eligible employee who is a member under the NTGPAS Scheme makes an election under rule 6A(1) of the Northern Territory Government and Public Authorities' Superannuation Scheme Rules to take a benefit under that rule, the election also takes effect as an election under subclause (4)(a).

- (c) If an eligible employee makes an election under subclause (4)(a) the Territory must pay the benefit as mentioned in subclause (3)(a) as if the employee had ceased to be employed.

7. PAYMENT WHERE ELIGIBLE EMPLOYEE INCAPABLE

- (1) Where an eligible employee or former eligible employee to whom a benefit under this scheme is payable is, in the opinion of the Commissioner, incapable of administering his own affairs by reason of illness, imprisonment or any other cause, the Commissioner may pay the benefit to the Public Trustee for which benefit the receipt of the Public Trustee is a good discharge of the obligation under the scheme of the Commissioner.
- (2) A payment made under Sub-clause (1) shall be deemed to have been made to the person entitled to the benefit.

8. UNPAID BENEFITS

A benefit unpaid 6 months after the date on which the entitlement to it arose under clause 6 accrues interest at the rate of 6%p.a. from that date.

9. INFORMATION

- (1) An eligible employee or former eligible employee may, at any time, request the Commissioner to provide him with information about his entitlements under the scheme, and the Commissioner shall, as soon as practicable, supply the information requested.
- (2) The Commissioner may, at any time, require an eligible employee or the employer of an eligible employee to provide to the Commissioner such information relating to the remuneration of the employee, or such other information relevant to the administration of the scheme, as the Commissioner requires, and the member or the employer, as the case may be, shall provide the information accordingly.

10. ACCOUNTS

The Commissioner shall cause to be kept proper accounts and records of the transactions and affairs of the scheme and shall do all things necessary to ensure that all payments of benefits are correctly made and properly authorised.

11. AUDIT

The accounts and records of the scheme shall be audited by the Auditor-General pursuant to Part 3 of the Audit Act.

12. REPORT ON OPERATIONS

The Commissioner shall provide the Treasurer with a report on the operations of the scheme during each financial year as soon as practicable after the end of the financial year.

13. CLAIM FOR BENEFIT UNDER SCHEME

- (1) An eligible employee or other person entitled or claiming to be entitled to a benefit under the scheme may apply to the Commissioner, in the approved form and manner, for the payment of that benefit to him.
- (2) The Commissioner shall, as soon as practicable after receiving an application under Sub-clause (1), make a decision on the application.
- (3) An applicant may, in writing, require the Commissioner to give his reasons in writing for his decision on the application and the Commissioner shall give his reasons accordingly.

14. REVIEW OF DECISIONS

A person who is aggrieved by a decision of the Commissioner under this scheme may by notice in writing given to the Commissioner within 30 days after the day on which the decision first comes to the notice of the person, or within such further period as the Commissioner allows, request the Commissioner to reconsider the decision. The notice to the Commissioner shall set out the reasons for making the request.

Upon the receipt of the request the Commissioner shall as soon as possible reconsider the decision and may confirm revoke or vary the decision as he thinks fit.

Where the Commissioner has reconsidered a decision he shall by notice in writing inform the person of his reconsideration of the decision and his reasons for confirming revoking or varying the decision.

15. AMENDMENTS TO THE SCHEME

The Territory may at any time by Instrument in writing signed by the Treasurer amend the provisions of this Instrument.

This Instrument is made

4th day of January 1989.

Signed by

Treasurer of the Northern Territory