

Serial 65
Superannuation Legislation Amendment Bill 2018
Ms Manison

A Bill for an Act to amend the *Legislative Assembly Members' Superannuation Fund Act* and the *Superannuation Act*, and for related purposes

NORTHERN TERRITORY OF AUSTRALIA

SUPERANNUATION LEGISLATION AMENDMENT ACT 2018

Act No. [] of 2018

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2018

An Act to amend the *Legislative Assembly Members' Superannuation Fund Act* and the *Superannuation Act*, and for related purposes

[Assented to [] 2018]
[Introduced [] 2018]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Superannuation Legislation Amendment Act 2018*.

2 Commencement

- (1) Parts 1 and 2 commence on the day after the day on which the Administrator's assent to this Act is declared.
- (2) The remaining provisions of this Act commence on a day fixed by the Administrator by *Gazette* notice.

Part 2 Stage 1 amendments

3 Act amended

This Part amends the *Superannuation Act*.

4 Part 3, Division 6 heading amended

Part 3, Division 6, heading

omit

adherents'

5 Section 45DE replaced

Section 45DE

repeal, insert

45DE Transfer to successor fund

- (1) The Commissioner may transfer the benefits of members and adherents to a superannuation fund that is a successor fund for members and adherents.
- (2) A superannuation fund is a **successor fund** for members and adherents if the Trustee Board and Commissioner:
 - (a) are satisfied that the fund confers on a member of that fund rights in respect of benefits equivalent to those that the member and adherent have under the Scheme; and
 - (b) have agreed with the trustee of the fund that those equivalent rights will be conferred on members and adherents if their benefits are transferred to the fund.
- (3) The Commissioner may transfer the benefits of members and adherents to a successor fund without their consent.
- (4) However, if the successor fund is a registrable superannuation entity that is a regulated superannuation fund or an approved deposit fund, the Commissioner must not transfer a benefit unless the successor fund is registered under Part 2B of the SIS Act.
- (5) In this section:

approved deposit fund, see section 10(1) of the SIS Act.

benefit, in relation to a member or adherent, means the balance of the member's or adherent's accumulation account prior to the transfer to a successor fund.

registrable superannuation entity, see section 10(1) of the SIS Act.

regulated superannuation fund, see section 10(1) of the SIS Act.

6 Section 49L replaced

Section 49L

repeal, insert

49L Offence to disclose confidential information

- (1) A person commits an offence if:
- (a) the person obtains information in the course of performing a function connected with the administration of an NTG Scheme or this Act or exercising a power under this Act; and
 - (b) the information is confidential and the person is reckless in relation to that circumstance; and
 - (c) the person intentionally engages in conduct; and
 - (d) the conduct results in the disclosure of the information and the disclosure is not:
 - (i) for a purpose connected with the administration of this Act, including a legal proceeding arising out of the operation of this Act; or
 - (ii) to a person who is otherwise entitled to the information; and
 - (e) the person is reckless in relation to the result and circumstance mentioned in paragraph (d).

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) If the information mentioned in subsection (1) relates to a person, it is a defence to a prosecution for an offence against that subsection if the person has consented to the disclosure of the information.

Note for section 49L

In addition to the circumstances mentioned in this section, a person who discloses information mentioned in this section will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

Part 3 Stage 2 amendments

Division 1 Amendments to Legislative Assembly Members' Superannuation Fund Act

7 Act amended

This Division amends the *Legislative Assembly Members' Superannuation Fund Act*.

8 Section 1 amended (Short title)

Section 1

omit

Superannuation Fund

insert

Pensions

9 Section 3 amended (Definitions)

(1) Section 3, definition ***Trustee Board***

omit

(2) Section 3

insert (in alphabetical order)

asset means property of any kind, whether tangible or intangible, real or personal, including any right, interest or claim of any kind, whether liquidated or unliquidated, actual, contingent or prospective.

Commissioner, see section 3(1) of the *Superannuation Act*.

liability means any liability, duty or obligation, whether liquidated or unliquidated, actual, contingent or prospective.

right means any right, power, privilege or immunity, whether actual, contingent or prospective.

transfer date means the commencement of section 7 of the *Superannuation Legislation Amendment Act 2018*.

Trustee Board means the Superannuation Trustee Board as constituted on the transfer date under section 8A of the *Superannuation Act*.

- (3) Section 3, definition **accumulation account**

omit

Fund

insert

Scheme

- (4) Section 3, definition **Fund** after "established"

insert

on 23 September 1979

10 Part II replaced

Part II

repeal, insert

Part II Administration

Division 1 Discontinuance of Legislative Assembly Members' Superannuation Fund

4 Transfer of Fund assets and liabilities

- (1) The assets and liabilities of the Fund are transferred to the Central Holding Authority on the transfer date.
- (2) The assets and liabilities of the Fund must be recorded in the accounts of the Central Holding Authority.
- (3) The Fund is discontinued when all its assets and liabilities are transferred under subsection (1).

4A Transfer of functions

- (1) On the transfer date, the Trustee Board and Commissioner must:
 - (a) take all practicable steps to transfer the Trustee Board's functions and the records and administration of the Scheme to the Commissioner; and

- (b) give to each registrar all documents and information necessary to record and register the transfers mentioned in paragraph (a).
- (2) On the transfer date:
- (a) the Commissioner is substituted for the Trustee Board in any proceedings relating to the Fund to which the Trustee Board is a party; and
 - (b) the Commissioner is substituted for the Trustee Board in any agreement or document relating to the Fund; and
 - (c) any proceedings relating to the Fund that could have been commenced by or against the Trustee Board may only be commenced by or against the Commissioner; and
 - (d) any remedy that would have been available to or against the Trustee Board relating to the Fund is available only to or against the Commissioner.
- (3) In this section:

registrar means a person authorised or required by a law of any jurisdiction to record or register documents relating to transactions affecting a transferred asset or liability.

5 Record of accounts

The Commissioner must record the following in relation to each member and each former member who retains an interest in the Scheme:

- (a) all contributions made under Part III;
- (b) the return on the accumulation account as at the end of the financial year before the assets of the Fund are transferred to the Central Holding Authority;
- (c) the rate of return on the accumulation account determined under section 6(1);
- (d) all benefits and other amounts paid from the accumulation account;
- (e) any other amounts debited or credited to the accumulation account.

6 Return on accumulation accounts

- (1) The Commissioner must, on the transfer date, determine the rate of return (which may be positive, neutral or negative) on accumulation accounts.
- (2) The return is to be credited or debited to accumulation accounts as at the transfer date.

7 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 for each member in relation to whom a superannuation contributions surcharge is paid or payable by the Commissioner.
- (2) The Commissioner must debit to the surcharge debt account of a member:
 - (a) any superannuation contributions surcharge paid or payable by the Commissioner in respect of the member; and
 - (b) any interest 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 a member any amount paid under section 8 by the member.

8 Advance payments to reduce superannuation contributions surcharge

- (1) A member may, by lodging with the Commissioner an election form, do any of the following:
 - (a) pay an amount to the credit of the Central Holding Authority to reduce the amount by which the member's surcharge debt account is in debit;
 - (b) pay the amount by a single payment or by periodic payments;
 - (c) vary, in accordance with the form, the amount or manner of payment;
 - (d) revoke a previous election under this section.
- (2) The election form must:
 - (a) be in a form approved by the Commissioner; and
 - (b) specify the amount to be paid and the manner of payment.

9 Repayment of superannuation contribution surcharge

Despite any other provision of this Act, the Commissioner may:

- (a) commute part of a member's pension under this Act to a lump sum in order to pay the balance of the member's surcharge debt account; or
- (b) deduct an amount equal to the balance of a member's surcharge debt account from any payment to be made under this Act in relation to the member.

9A Commutation to pay deferred superannuation contributions surcharge

- (1) A former member or other person may request commutation, under subsection (2), of a pension or allowance if:
 - (a) the pension or allowance is payable under this Act to the former member or person; and
 - (b) the former member or other person has received, from the Commissioner of Taxation, a notice under section 15 of the Surcharge Collection Act and is liable to pay a superannuation contributions surcharge in an amount specified in the notice; and
 - (c) the superannuation contributions surcharge relates to surchargeable contributions, within the meaning of the Surcharge Collection Act, in relation to the former member, a deceased member or a deceased former member.
- (2) The former member or other person may, in writing, request the Commissioner to commute as much of the pension or allowance payable to the former member or other person as is necessary to provide a lump sum equivalent to the amount of the superannuation contributions surcharge.
- (3) The Commissioner must comply with the request if satisfied that the commuted amount will be used to pay the superannuation contributions surcharge.

10 Actuarial review

- (1) The Commissioner must have an actuarial review of the Scheme carried out as at 30 June 2019 and 3 year intervals after that date, or at other dates as directed by the Minister.
- (2) The Commissioner may engage an actuary to carry out an actuarial review.

- (3) The cost of engaging an actuary and the costs of an actuarial review are to be paid by the Territory.

11 Payments and appropriation

- (1) The benefits payable under this Act must be paid from the Central Holding Authority.
- (2) The appropriation of public moneys for the purpose of paying benefits under this Act is established or increased to the extent necessary.

Division 2 Commissioner

12 Delegation

The Commissioner may delegate any of the Commissioner's powers and functions under this Act to a person.

11 Sections 28 and 28A replaced

Sections 28 and 28A

repeal, insert

28 Fees for additional services

The Commissioner may charge a person who requests a service in relation to this Act the reasonable cost of performing the service.

28A Offence to disclose confidential information

- (1) A person commits an offence if:
- (a) the person obtains information in the course of performing a function connected with the administration of this Act or exercising a power under this Act; and
 - (b) the information is confidential and the person is reckless in relation to that circumstance; and
 - (c) the person intentionally engages in conduct; and
 - (d) the conduct results in the disclosure of the information and the disclosure is not:
 - (i) for a purpose connected with the administration of this Act, including a legal proceeding arising out of the operation of this Act; or

- (ii) to a person who is otherwise entitled to the information;
and
- (e) the person is reckless in relation to the result and
circumstance mentioned in paragraph (d).

Maximum penalty: 200 penalty units or imprisonment for
2 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) If the information mentioned in subsection (1) relates to a person, it
is a defence to a prosecution for an offence against that subsection
if the person has consented to the disclosure of the information.

Note for section 28A

*In addition to the circumstances mentioned in this section, a person who
discloses information mentioned in this section will not be criminally responsible
for an offence if the disclosure is justified or excused by or under a law (see
section 43BE of the Criminal Code).*

12 Part VIII inserted

After section 37

insert

Part VIII Transitional matters for Superannuation Legislation Amendment Act 2018

38 Exemption from taxes and charges

- (1) No tax or charge is chargeable in relation to any act or thing that:
 - (a) occurs by operation of Part 3 of the *Superannuation
Legislation Amendment Act 2018*; or
 - (b) is done under or to give effect to that Part; or
 - (c) is done for a purpose connected with, or arising out of, giving
effect to that Part.
- (2) Subsection (1) applies in relation to a foreign tax or charge so far as
the legislative power of the Legislative Assembly permits.
- (3) Any foreign tax or charge payable in relation to an act or thing
mentioned in subsection (1) is to be paid from the Central Holding
Authority, which is appropriated accordingly.

(4) In this section:

foreign tax or charge means a tax or charge under a law of a jurisdiction other than the Territory.

tax or charge means a tax, duty, levy, fee or charge of any kind, including a fee or charge for a service.

39 Continuation of ongoing matters

Anything done or omitted to be done by, to or in relation to the Trustee Board before the transfer date that has effect after that date is taken to have been done or omitted to be done by, to or in relation to the Commissioner.

40 Acquisition on just terms

If the operation of Part 3 of the *Superannuation Legislation Amendment Act 2018* would result in an acquisition of property from a person otherwise than on just terms:

- (a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and
- (b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

13 Act further amended

The Schedule has effect.

Division 2 Amendments to Superannuation Act relating to LAMS Scheme

14 Act amended

This Division amends the *Superannuation Act*.

15 Section 3 amended (Interpretation)

Section 3(1), definition **LAMS Scheme**

omit, insert

LAMS Scheme means the scheme established under the *Legislative Assembly Members' Pensions Act*.

16 Section 7 replaced

Section 7

repeal, insert

7 Delegation

The Commissioner may delegate any of the Commissioner's powers and functions under this Act to a person.

17 Section 8B amended (Functions and powers of Trustee Board)

Section 8B(1)(c)

omit

18 Section 8TB amended (Apportionment of Trustee Board's general costs)

Section 8TB(2), definition **Board managed scheme**, paragraph (b)

omit

19 Section 49B amended (Meaning of reviewable decision)

(1) After section 49B(1)(a)(ii)

insert

(iia) the LAMS Scheme; or

(2) Section 49B(1)(b)

omit, insert

(b) a decision made by the Trustee Board about the operation or management, in relation to a particular person, of a scheme in relation to which the Trustee Board exercises powers or performs functions under section 8B(1)(d).

Part 4 Stage 3 amendments

Division 1 Amendments to the Superannuation Act relating to transfer of Fund to successor fund

20 Act amended

This Division amends the *Superannuation Act*.

- (2) The Commissioner has the powers necessary to perform the Commissioner's functions.

23 Section 8B amended (Functions and powers of Trustee Board)

Section 8B(1)(a) and (b), (3) and (4)

omit

24 Section 8D amended (Review of Trustee Board membership structure)

Section 8D(5)

omit, insert

- (5) In this section:

scheme means any superannuation scheme in relation to which the Trustee Board exercises powers or performs functions.

25 Section 8S amended (Disclosure of personal interest)

Section 8S(1)(a)

omit

the Fund or any other

insert

any

26 Section 8TB amended (Apportionment of Trustee Board's general costs)

Section 8TB(2), definition **Board managed scheme**

omit, insert

Board managed scheme means a scheme in relation to which the Trustee Board exercises powers or performs functions.

27 Section 26 amended (Membership)

Section 26(2)

omit, insert

- (2) An eligible employee must pay to the employee's accumulation account the contributions required by the Rules.

28 Section 28A amended (Surcharge debt accounts)

Section 28A(1)

omit

within the accounts of the Fund

29 Section 28B amended (Advance payments to reduce superannuation contributions surcharge)

Section 28B(1)

omit

Fund

insert

Central Holding Authority

30 Sections 28 and 29 replaced

Sections 28 and 29

repeal, insert

29 Payment of employer-financed benefits

All employer-financed benefits payable under the Scheme are to be paid from the Central Holding Authority, which is appropriated to the extent necessary to make those payments.

31 Section 30 amended (Commissioner may recover employer-financed benefits on behalf of Territory)

Section 30(1) and (2)

omit, insert

- (1) Subject to subsections (2) and (3), if an employer-financed benefit is payable in respect of a person who is or was an eligible employee of a public authority, the public authority must pay the Central Holding Authority the amount of the benefit, less any amount specified by the Minister.
- (2) The Minister may require a public authority to enter into an arrangement with the Territory to make regular instalment payments to the Central Holding Authority, in lieu of a single payment under subsection (1), if the Minister is satisfied that the arrangement has a fair basis for the payments.
- (2A) A public authority may use any moneys under its control to pay amounts under subsection (1) or (2).

32 Section 36 repealed (Portability of benefits)

Section 36

repeal

33 Part 3, Division 2 replaced

Part 3, Division 2

repeal, insert

Division 2 Administration of Scheme

38 Discontinuance of Fund

The Northern Territory Government and Public Authorities Employees' Superannuation Fund is discontinued.

39 Recovery of money owing by employees

- (1) The Commissioner may recover money owing to an accumulation account by an eligible employee or other person.
- (2) The amount may be recovered as if it were a debt due and payable to the Territory, except in the case of unpaid contributions.

- (3) In the case of an eligible employee, the amount may be recovered:
 - (a) by deduction from the employee's salary in accordance with subsection (4); and
 - (b) by such instalments, and at such times, as the Commissioner determines as if the amount were public moneys within the meaning of the *Financial Management Act*; and
 - (c) in accordance with the Treasurer's directions under section 38 of that Act.
- (4) An employer must, at the request in writing of the Commissioner:
 - (a) make deductions from an eligible employee's salary under subsection (3)(a); and
 - (b) pay the amount of the deductions to the employee's accumulation account.
- (5) An amount deducted and paid under subsection (4) is taken to have been paid to the accumulation account by the eligible employee from whose salary the deduction was made.
- (6) Any other amount recovered under this section from a person is to be paid to the person's accumulation account.

40 Annual report

- (1) The Commissioner must prepare, for the Minister, an annual report on the operation and management of each NTG Scheme during the financial year.
- (2) The annual report must be given to the Minister within 6 months after the end of the financial year or within such other period as determined by the Minister.
- (3) The Minister must table the report in the Legislative Assembly within 6 sitting days after the Minister receives it.

34 Section 45D replaced

Section 45D

repeal, insert

45D Accounts for non-member spouses

- (1) The Commissioner may, on request, establish a separate account in the accounts of the Scheme to administer an amount to which a person is entitled as a non-member spouse under this Act.
- (2) An account established under subsection (1) is subject to the Rules.

35 Sections 45DC and 45DD replaced

Sections 45DC and 45DD

repeal, insert

45DC Release amount

The ***release amount*** is the least of the following:

- (a) the amount authorised by the release authority to be paid;
- (b) the amount the account holder or ATO requests to be paid;
- (c) if the account holder is entitled to immediate payment of a benefit under the Scheme – the amount of the benefit.

45DD Effect of releasing benefit

If the Commissioner pays an amount to the ATO or an account holder under section 45DB(2) and the account holder is entitled to immediate payment of a benefit under the Scheme, the amount of the benefit is reduced by the amount paid under section 45DB(2).

36 Section 45DF replaced

Section 45DF

repeal, insert

45DF Payment to eligible rollover fund

- (1) The Commissioner may pay the benefits of adherents to an eligible rollover fund if:
 - (a) the Commissioner would be entitled to do so under section 243 of the SIS Act, assuming that the Scheme is a superannuation fund to which that section applies; and
 - (b) the Commissioner has approved the eligible rollover fund as one to which benefits may be paid under this section.
- (2) Section 243 of the SIS Act applies in relation to the payment, with the necessary changes.
- (3) In this section:

benefit, in relation to an adherent, means the adherent's interest in the Scheme.

eligible rollover fund, see section 10(1) of the SIS Act.

37 Section 45T amended (Information to be provided by Commissioner)

Section 45T(1), example

omit, insert

Example for subsection (1)

A member of the NTGPAS Scheme might ask for a statement of the number of annual benefit points to which the member is entitled.

38 Section 45X amended (Payment without grant of probate etc.)

Section 45X(3) and (5)

omit

(and, if relevant, the Trustee Board)

39 Section 50A replaced

Section 50A

repeal, insert

50A Commissioner may charge fees

The Commissioner may charge fees for services provided at the request of a person.

Division 2 Amendment of Northern Territory Government and Public Authorities' Superannuation Scheme Rules

40 Rules amended

This Division amends the *Northern Territory Government and Public Authorities' Superannuation Scheme Rules*.

41 Rule 1 amended (Definitions)

(1) Rule 1, definitions ***former member*** and ***Government contribution***

omit

(2) Rule 1

insert (in alphabetical order)

former member means a former eligible employee.

(3) Rule 1, definition ***preserved benefit***

omit

13A, 13B or 13C

insert

13A or 13B

42 Rule 5 amended (Contributions)

After rule 5(8)

insert

- (9) A contribution made while a member is on leave, as mentioned in subrule (4A) or (6), is taken to be a voluntary contribution under rule 5C and will not produce an employer-financed benefit for the purposes of Part III if:
- (a) the member made the contribution without making an application in writing to the Commissioner under subrule (4A) or (6); or
 - (b) the member made an application in writing to the Commissioner under subrule (4A) or (6) but the member made the contribution without the Commissioner's permission.

43 Rule 5B amended (Salary sacrifice)

- (1) Rule 5B(2)

omit

- (2) Rule 5B(3)

omit

for the purposes of Part 3

44 Rule 5C amended (Voluntary contributions)

- (1) Rule 5C(1) and (2)

omit, insert

- (1) A member who is making contributions to the member's accumulation account under rule 5 may elect to make additional voluntary contributions to that account.

- (2) Rule 5C(3)

omit

for the purposes of Part 3

45 Rule 5D repealed (Co-contributions for low income earners)

Rule 5D

repeal

46 Rule 6 amended (Age retirement benefit)

Rule 6(1)

omit, insert

- (1) A member who retires after attaining the age of 55 years must receive a benefit comprising the accrued employer component, less the amount of the balance of the member's surcharge debt account, if any.

47 Rule 6A amended (Benefit at preservation age)

Rule 6A(3)

omit, insert

- (3) A member who makes an election under subrule (1) must receive a benefit comprising the accrued employer component, less the amount of the balance of the member's surcharge debt account, if any.

48 Rule 7 amended (Resignation benefit)

Rule 7(1)

omit, insert

- (1) A member who resigns, or who ceases to be an eligible employee and is not entitled to another benefit under the Scheme, must receive the benefit determined under subrule (1A), if the exit date occurs after the first 5 years of membership, excluding periods when the member was not eligible to contribute.
- (1A) The benefit payable under subrule (1) is equal to:
- (a) the accrued employer component multiplied by $\frac{X}{60}$, where X equals the number of complete months of membership during which the member was eligible to contribute after that first 5 years of membership but in any case is not greater than 60; less

- (b) the amount of the balance of the member's surcharge debt account, if any.

49 Rule 8 replaced

Rule 8

repeal, insert

8 Retrenchment benefit

A member who is retrenched must receive a benefit comprising the accrued employer component, less the amount of the balance of the member's surcharge debt account, if any.

50 Rule 9 amended (Death benefit)

- (1) Rule 9(1)(a)

omit

- (2) Rule 9(3)

omit, insert

- (3) If a member dies leaving no dependant, the member's estate must receive the accrued employer component, less the amount of the balance of the member's surcharge debt account, if any.

51 Rule 10 amended (Invalidity retirement benefit)

Rule 10(1)(a)

omit

52 Rule 13A amended (Crystallisation of benefits)

- (1) Rule 13A(1)

omit

This rule

insert

Subrule (2)

(2) Rule 13A(2)

omit, insert

(2) The Commissioner may crystallise the benefit by:

- (a) calculating the amount of the employer-financed benefits due to the person as at the person's exit date; and
- (b) causing that amount to be paid into an eligible rollover fund approved by the Commissioner under section 45DF of the Act as if the benefit were being paid.

53 Rule 13B amended (Returned benefits)

Rule 13B

omit

Fund and credited to an accumulation account for the former member

insert

Central Holding Authority, and the former member remains entitled to payment of the returned benefit

54 Rule 13C repealed (Payments from NTSSS or NTPSBS)

Rule 13C

repeal

55 Rule 13D amended (Deduction of surcharge from preserved benefits)

Rule 13D(2)(b)(ii) and (c) and (3)

omit

accumulation account

insert

accrued employer component

Part 5 Stage 4 amendments

Division 1 Amendments to Superannuation Act relating to termination of Trustee Board

56 Act amended

This Division amends the *Superannuation Act*.

57 Section 3 amended (Interpretation)

- (1) Section 3(1), definitions ***appointed Board member, committee member, Police Association, Trustee Board*** and ***Unions NT***

omit

- (2) Section 3(1), definition ***NTG Scheme***, paragraph (e)

omit, insert

- (e) any other superannuation scheme administered by the Commissioner with the approval of the Minister.

58 Part 2, Division 1A repealed (Superannuation Trustee Board)

Part 2, Division 1A

repeal

59 Section 49B replaced

Section 49B

repeal, insert

49B Reviewable decisions

- (1) A ***reviewable decision*** is any decision made by the Commissioner, in relation to a particular person, about the operation or management of:

(a) the NTGPAS Scheme; or

(b) the NTGDI Scheme; or

(c) the NTSS Scheme; or

(d) the LAMS Scheme; or

(e) any superannuation scheme in relation to which the Commissioner exercises powers or performs functions.

- (2) For subsection (1), a decision is taken to be made if the Commissioner:
- (a) makes, or fails to make, a decision; or
 - (b) engages in any conduct, or fails to engage in any conduct, in relation to making a decision; or
 - (c) makes no decision within any period required under this Act for making the decision; or
 - (d) makes no decision within a reasonable period after any obligation to make the decision arose.
- (3) To avoid doubt, a decision in relation to the operation or management of a scheme or fund as a whole is not a reviewable decision.

60 Section 49J amended (Information to be provided to Commissioner or Trustee Board)

- (1) Section 49J, heading
omit
or Trustee Board
- (2) Section 49J(1)(a) and (b)
omit
or the Trustee Board

61 Section 49K amended (Misleading information)

- (1) Section 49K(1)(a) and (2)(a)
omit
or the Trustee Board
- (2) Section 49K(1)(c) and (2)(c)
omit
or Trustee Board

62 Part 10 inserted

After section 77

insert

**Part 10 Transitional matters for Superannuation
Legislation Amendment Act 2018**

78 Definitions

In this Part:

commencement means the commencement of Part 5 of the *Superannuation Legislation Amendment Act 2018*.

Trustee Board, means the Trustee Board as constituted under section 8A of this Act immediately before the commencement.

79 Transfer of functions

On the commencement:

- (a) the Commissioner is substituted for the Trustee Board in any proceedings to which the Trustee Board is a party; and
- (b) the Commissioner is substituted for the Trustee Board in any agreement or document; and
- (c) any proceedings that could have been commenced by or against the Trustee Board may only be commenced by or against the Commissioner; and
- (d) any remedy that would have been available to or against the Trustee Board is available only to or against the Commissioner.

80 Exemption from taxes and charges

- (1) No tax or charge is chargeable in relation to any act or thing that:
 - (a) occurs by operation of the *Superannuation Legislation Amendment Act 2018*; or
 - (b) is done under or to give effect to that Act; or
 - (c) is done for a purpose connected with, or arising out of, giving effect to that Act.

-
- (2) Subsection (1) applies in relation to a foreign tax or charge so far as the legislative power of the Legislative Assembly permits.
 - (3) Any foreign tax or charge payable in relation to an act or thing mentioned in subsection (1) is to be paid from the Central Holding Authority, which is appropriated accordingly.
 - (4) In this section:

foreign tax or charge means a tax or charge under a law of a jurisdiction other than the Territory.

tax or charge means a tax, duty, levy, fee or charge of any kind, including a fee or charge for a service.

81 Continuation of ongoing matters

- (1) Anything done or omitted to be done by, to or in relation to the Trustee Board before the commencement that has effect after that date is taken to have been done or omitted to be done by, to or in relation to the Commissioner.
- (2) To avoid doubt, section 8V continues to apply to members of the Trustee Board after the commencement in relation to anything done or omitted to be done by, to or in relation to the Trustee Board before the commencement.
- (3) To avoid doubt, the repeal of section 36 by the *Superannuation Legislation Amendment Act 2018* does not affect the validity of any agreement made under that section.

Division 2 Amendment of Superannuation Regulations

63 Regulations amended

This Division amends the *Superannuation Regulations*.

64 Regulation 6 repealed (Trustee Board common seal)

Regulation 6

repeal

Part 6 Repeal

65 Repeal of Act

This Act is repealed on the day after it commences.

Schedule **Legislative Assembly Members'
Superannuation Fund Act further amended**

section 13

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 16(1)	shall Fund	must Central Holding Authority
section 16(1A)	Fund <i>(all references)</i> him or her Trustee Board <i>(all references)</i> his or her shall	Central Holding Authority the member Commissioner the member's must
section 16(2)	Fund shall be	Central Holding Authority is
section 16(2)(a) and (b)	his or her <i>(all references)</i>	the member's
section 16(2)(c)	he or she	the member
section 16(3)	shall <i>(all references)</i> Fund	must Central Holding Authority
section 17	Trustee Board his or her <i>(all references)</i> shall Fund	Commissioner the member's are to Central Holding Authority

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 17A	Fund	Central Holding Authority
section 18, definition spouse , paragraphs (b) and (d)	Trustee Board	Commissioner
section 19(1)	he or she Fund	the member Central Holding Authority
section 22(1)	Trustee Board (<i>all references</i>)	Commissioner
section 22(2)	Trustee Board that he or she he or she he or she shall be entitled	Commissioner that the member or person the member or person the member or person is entitled
section 22(3)	Trustee Board (<i>all references</i>) shall Trust	Commissioner must Commissioner
section 24(4)	his or her shall be Trustee Board to him or her or her had he or she or she, as the case may be,	the person's is Commissioner had the person
section 24(6)	spouse surviving him or her Trustee Board (<i>all references</i>) its it	surviving spouse Commissioner the Commissioner's the Commissioner

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 24(7)	Trustee Board (<i>all references</i>) shall not be	Commissioner is not
section 24(8)	his or her death shall that time he or she had	death, must the time of death there was
	Trustee Board (<i>all references</i>) its	Commissioner the Commissioner's
section 25(1)	Trustee Board his or her	Commissioner the former member's
sections 25A(1) and (4), 25C(4) and 25D(2)	Trustee Board	Commissioner
section 27A(a)	Fund	Scheme
section 27B(1)	Trustee Board Board	Commissioner Commissioner
section 27B(3) and (4)	Trustee Board	Commissioner
section 27B(4)(a) and (b)(i)	Trustee Board's	Commissioner's
section 27B(5)	Trustee Board Board's Board	Commissioner Commissioner's Commissioner