



AUSTRALIAN CAPITAL TERRITORY

**Superannuation (Legislative Assembly  
Members) Act 1991**

**No. 93 of 1991**

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AUSTRALIAN CAPITAL TERRITORY

## **Superannuation (Legislative Assembly Members) Act 1991**

No. 93 of 1991

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### **An Act to provide superannuation benefits for members of the Legislative Assembly and for related purposes**

*[Notified in ACT Gazette S155: 24 December 1991]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

#### **PART I—PRELIMINARY**

##### **Short title**

1. This Act may be cited as the *Superannuation (Legislative Assembly Members) Act 1991*.

##### **Commencement**

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which

this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

### Interpretation

3. In this Act, unless the contrary intention appears—

“approved deposit fund” means a fund that—

- (a) is an indefinitely continuing fund;
- (b) is maintained by a trustee or trustees solely for approved purposes; and
- (c) has approved rules;

“approved purposes”, in relation to a fund, has the same meaning as in the *Occupational Superannuation Standards Act 1987* of the Commonwealth;

“approved rules” has the same meaning as in the *Occupational Superannuation Standards Act 1987* of the Commonwealth;

“Board” means the Australian Capital Territory Legislative Assembly Members Superannuation Board established under section 4;

“contributing member” includes—

- (a) a member of the second Assembly or of any subsequent Assembly; and
- (b) a member or former member of the first Assembly who elects to and does contribute to the Consolidated Revenue Fund in accordance with section 13 or 14;

“discontinuance”, in relation to a member, occurs when that member’s term of office ends, whether by death, resignation, retirement on the grounds of invalidity, disqualification or expulsion, by dissolution of the Legislative Assembly or by operation of section 10 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth, but does not occur when that member is re-elected to the Legislative Assembly—

- (a) at the first general election after dissolution of the Legislative Assembly; or
- (b) at the general election for which the polling day marks the end of the member’s term of office by operation of section 10 of that Act;

“general election” means a general election of members of the Legislative Assembly;

“invalidity” means a permanent disability, being a disability—

- (a) which at least 2 registered medical practitioners certify;  
and
- (b) which the Board determines;

is likely to result in an inability ever to work in an occupation for which the member is reasonably qualified by education, training or experience;

“member” means a member of the Legislative Assembly;

“office holder” means a member who receives additional salary under the Remuneration Tribunal’s determination in relation to the Legislative Assembly;

“relevant period of service” means that period during which a person served as a member in consecutive terms but does not include a period of service in respect of which the person has received a superannuation benefit under this Act;

“superannuation fund” means a fund that—

- (a) is an indefinitely continuing fund; and
- (b) is maintained solely for either or both of the following purposes:
  - (i) the provision of benefits for each member of the fund in the event of the retirement of the member from any business, trade, profession, vocation, calling, occupation or employment in which that member is engaged;
  - (ii) the provision of benefits for dependants of each member of the fund in the event of the death of that member;

or for either or both of those purposes and for such ancillary purposes as the Insurance and Superannuation Commissioner under the *Insurance and Superannuation Commissioner Act 1987* of the Commonwealth approves.

## **PART II—LEGISLATIVE ASSEMBLY MEMBERS SUPERANNUATION BOARD**

### ***Division 1—Establishment, functions and powers of the Board***

#### **Establishment**

4. There shall be an Australian Capital Territory Legislative Assembly Members Superannuation Board.

#### **Functions**

5. (1) The Board shall be responsible for the administration of this Act.

(2) Without limiting the generality of subsection (1), the Board shall be responsible for—

- (a) determining entitlements in accordance with this Act; and
- (b) determining applications for retirement on the grounds of invalidity.

#### **Powers**

6. The Board has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

### ***Division 2—Constitution and meetings***

#### **Constitution**

7. (1) The Board is constituted by 4 persons, being—

- (a) the Speaker of the Legislative Assembly or, in the absence of the Speaker, the Deputy Speaker;
- (b) a Government member elected in accordance with the relevant procedures at a meeting, convened by the Speaker, of Government members or an alternate Government member elected in accordance with the relevant procedures at a meeting, convened by the Speaker, of Government members;
- (c) an Opposition member elected in accordance with the relevant procedures at a meeting, convened by the Speaker, of Opposition members or an alternate Opposition member elected in accordance with the relevant procedures at a meeting, convened by the Speaker, of Opposition members; and
- (d) the Under Treasurer.

(2) In this section—

“Government member” means a member of the Executive or a member who belongs to a party, or is associated with a group of members, represented on the Executive;

“Opposition member” means a member who is not a Government member;

“relevant procedures” means the procedures laid down in the Standing Orders of the Legislative Assembly for the election of the Speaker.

(3) The performance of the functions or the exercise of the powers of the Board is not affected by reason only of a vacancy in the membership of the Board.

### **Chairperson**

8. The Speaker or, where applicable, the Deputy Speaker of the Legislative Assembly shall be the Chairperson of the Board.

### **Secretary**

9. The Under Treasurer shall be Secretary of the Board.

### **Meetings**

10. (1) The Chairperson shall convene a meeting of the Board—

- (a) whenever the Chairperson considers necessary for the efficient performance of its functions; and
- (b) upon the written request of any member.

(2) Where the Chairperson proposes to convene a meeting of the Board, he or she shall, not later than 5 days before the date of the proposed meeting, give each member of the Board a notice in writing specifying—

- (a) the date, time and place of the meeting; and
- (b) the matters to be considered at the meeting.

### **Procedure at meetings**

11. (1) The Chairperson shall preside at all meetings of the Board at which he or she is present.

(2) Where the Chairperson is absent from a meeting a member of the Board chosen by those present shall preside at the meeting.

(3) The member of the Board presiding at a meeting may give directions regarding the procedure to be followed at the meeting.

(4) At a meeting, 3 members of the Board constitute a quorum.

(5) Questions arising at a meeting shall be decided by a majority of the votes of the members of the Board present and voting.

(6) The presiding member has a deliberative vote and, in the event of an equality of votes, a casting vote.

(7) The Board shall keep minutes of its proceedings.

### **PART III—ENTITLEMENTS OF MEMBERS**

#### **Eligibility**

12. Any person who holds or has held office as a member is eligible upon his or her discontinuance to receive benefits under this Act in respect of that period during which he or she was a contributing member.

#### **Members' contributions**

13. (1) A contributing member shall contribute 5% of his or her salary, including additional salary but not including allowances, to the Consolidated Revenue Fund in respect of superannuation benefits.

(2) A member of the first Assembly who, within 30 days after the commencement of this section, elects to become a contributing member may elect to do so—

- (a) as from the day of commencement of this Act;
- (b) as from the day on which that member's term of office began; or
- (c) as from the day on which he or she so elects.

(3) Where a member elects to contribute in accordance with paragraph (2) (a) or (b) that member shall, within 30 days after so electing or within such further period as the Board in writing allows, make a payment to the Consolidated Revenue Fund of 5% of the salary, including additional salary but not including allowances, he or she received as a member from the day as from which he or she became a contributing member until the day on which he or she so elects.

(4) An election under subsection (2) shall be notified to the Secretary of the Board in writing.

(5) A member of the first Assembly who, more than 30 days after the commencement of this section, elects to contribute in accordance with subsection (1) shall contribute in respect of the period commencing on the day on which he or she so elects.

**Entitlements of former members**

**14. (1)** A person who ceased to be a member before the commencement of this section may, within 30 days after the commencement of this section or within such further period as the Board in writing allows, elect to contribute 5% of the salary he or she received during his or her term of office as a member to the Consolidated Revenue Fund to become eligible to receive superannuation benefits under this Act in respect of that period during which he or she was a member.

**(2)** A person who elects to contribute in accordance with subsection (1) and does so shall be taken to have been a contributing member during his or her term of office as a member.

**Superannuation benefit**

**15. (1)** Superannuation benefit is payable to a person entitled to a benefit under section 12, in respect of his or her relevant period of service, by way of a lump sum calculated in accordance with the formula—

$$\text{BSD} \times \text{SPA}$$

where—

**BSD** is the basic salary payable, on the date of that person's discontinuance, to members who are not office holders; and

**SPA** is the sum of the person's annual percentage accruals calculated in accordance with subsection (2).

**(2)** Annual percentage accruals are calculated as at 30 June each year for the financial year ended on that date during the continuance of a member's relevant period of service and at 30 June in the financial year during which the member's discontinuance occurred, and are equal to 29% for each full year of service.

**(3)** Where a member has been an office holder during any part of a financial year his or her annual percentage accrual for that year is increased by multiplying the 29% referred to in subsection (2) by a number calculated in accordance with the formula—

$$\frac{\text{TSR}}{\text{TSPM}}$$

where—

**TSR** is the total salary received by that member during that financial year; and

**TSPM** is the total basic salary which would have been received by the member during that financial year had he or she not been an office holder at any time during that financial year.

(4) Where a person was not a member during the whole of the financial year his or her annual percentage accrual for that year is reduced by multiplying that 29% referred to in subsection (2) by a number calculated in accordance with the formula—

$$\frac{\text{NDM}}{365}$$

where **NDM** is the number of days in that financial year on which that person was a member.

#### **Death or invalidity benefit**

**16. (1)** Where—

- (a) a member's discontinuance is due to death or invalidity; and
- (b) the member was under 60 years of age on the date of his or her discontinuance;

a further benefit is payable in accordance with this section.

(2) The further benefit under subsection (1) is calculated by dividing the superannuation benefit payable to the member under section 15 by the number of days the member has been a contributing member and then multiplying the quotient by the number of days from the date of the member's discontinuance until the date on which the member would attain the age of 60 years.

#### **Payment to estate**

**17.** Where a person—

- (a) becomes eligible to receive a benefit under this Act; and
- (b) dies before that benefit is paid;

the benefit is payable to the estate of that person.

#### **Preservation of benefit**

**18. (1)** Where a person—

- (a) who has not yet reached the age of 55 years; or
- (b) who has reached the age of 55 years but remains a member of the workforce;

becomes entitled to a superannuation benefit under this Act, that benefit is payable, for preservation in relation to that person—

- (c) to an approved deposit fund;
- (d) to a deferred annuity; or
- (e) to a superannuation fund;

which has been nominated by that person.

(2) Where a person referred to in subsection (1) has not, within 3 months after becoming so entitled, nominated a fund or annuity in accordance with that subsection, the Board may nominate—

- (a) a superannuation fund; or
- (b) an approved deposit fund;

to which that benefit shall be paid.

(3) Subsection (1) does not apply where a person is leaving Australia permanently or where a benefit becomes payable under this Act in relation to a member whose discontinuance is due to death or invalidity, and in such a case any benefit is payable forthwith.

## **PART IV—REVIEW OF DECISIONS**

### **Board to reconsider**

19. (1) A person affected by a decision of the Board who is dissatisfied with the decision may, by notice in writing given to the Secretary of the Board within 30 days after the day on which the decision comes to the notice of the person, or within such further period as the Board allows, request the Board to reconsider the decision.

(2) The notice shall set out the reasons for making the request.

(3) Upon receipt of the request, the Board shall reconsider the decision within a period not exceeding 30 days and may confirm or revoke the decision or vary the decision in such manner as it thinks fit.

### **Notice of reconsideration**

20. (1) Where the Board confirms, revokes or varies a decision, the Board shall, by notice in writing served either personally or by post on the person who made the request, inform the person of the result of the Board's reconsideration of the decision and its reasons for confirming, revoking or varying the decision, as the case may be.

(2) A notice under subsection (1) shall—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, application may be made to the Administrative Appeals Tribunal for review of the decision to which the notice relates; and
- (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 26 of that Act.

(3) The validity of a decision referred to in subsection (1) shall not be taken to be affected by a failure to comply with subsection (2).

### **Applications to Administrative Appeals Tribunal**

21. Applications may be made to the Administrative Appeals Tribunal for review of reviewable decisions that have been confirmed or varied under subsection 19 (3).

## **PART V—MISCELLANEOUS**

### **Annual report**

22. The Board shall, after each 30 June, prepare and furnish to the Assembly a report of the operations of the Board during the year that ended on that date.

### **Regulations**

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

*[Presentation speech made in Assembly on 21 November 1991]*