



Australian Capital Territory

Superannuation (Legislative Assembly Members) Amendment Act 2008

A2008-40

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 Part 1 heading	2
5 Section 1	2
6 New section 3A	3
7 Part 2 and division 2.1 headings	4
8 Functions Section 5	5
9 Division 2.2 heading	5
10 New section 11A	5
11 Part 3 heading	6
12 Sections 12 to 14	6
13 Superannuation benefit New section 15 (5)	6

Contents

	Page
14 Death or invalidity benefit	
Section 16 (2)	7
15 Payment to estate	
Section 17	7
16 Section 18	7
17 Part 4 heading	8
18 Part 5	9
19 Dictionary	11
Schedule 1 Technical amendments	13



Australian Capital Territory

Superannuation (Legislative Assembly Members) Amendment Act 2008

A2008-40

An Act to amend the *Superannuation (Legislative Assembly Members) Act 1991*

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

1 Name of Act

This Act is the *Superannuation (Legislative Assembly Members) Amendment Act 2008*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This Act amends the *Superannuation (Legislative Assembly Members) Act 1991*.

4 Part 1 heading

substitute

Chapter 1 Preliminary

5 Section 1

substitute

1 Name of Act

This Act is the *Legislative Assembly (Members' Superannuation) Act 1991*.

6 New section 3A

in chapter 1, insert

3A Meaning of *discontinuance*

- (1) For this Act, a ***discontinuance***, in relation to a member, happens when the member's term of office ends by—
 - (a) death; or
 - (b) resignation; or
 - (c) retirement on the ground of invalidity; or
 - (d) disqualification or expulsion; or
 - (e) dissolution of the Legislative Assembly; or
 - (f) the ending of the member's term of office under the Self-Government Act, section 10 (Term of office of member).
- (2) However, a ***discontinuance*** is taken not to have happened for this chapter if the member is re-elected to the Legislative Assembly at—
 - (a) if subsection (1) (e) applies—the 1st general election after the dissolution of the Assembly; or
 - (b) if subsection (1) (f) applies—the general election for which the polling day marks the end of the member's term of office.

7 Part 2 and division 2.1 headings

substitute

Chapter 2 Defined benefits scheme

Part 2.1 Preliminary

3B Application—ch 2

This chapter applies in relation to a member elected before the 2008 general election, in relation to a relevant period of service by the member, until the earlier of the following events:

- (a) the member's discontinuance;
- (b) if the member makes an election under section 18A (Members may transfer to choice of funds scheme)—the amount of the member's benefit under this chapter is paid under the section.

Note ***Elected***—see the dictionary.

3C Definitions—ch 2

In this chapter:

board means the Australian Capital Territory Legislative Assembly Members Superannuation Board established under section 4.

invalidity, in relation to a person, means a permanent disability to which at least 2 doctors certify, and that the board decides, is likely to result in an inability ever to work in an occupation for which the person is reasonably qualified by education, training or experience.

relevant period of service means the period during which a person served as a member in consecutive terms, but does not include a period of service in relation to which the person has received a superannuation benefit under this chapter.

Part 2.2 Legislative Assembly Members Superannuation Board

Division 2.2.1 Establishment of board

8 Functions Section 5

omit

this Act

substitute

this chapter

9 Division 2.2 heading

substitute

Division 2.2.2 Constitution and operation

10 New section 11A

in division 2.2.2, insert

11A Annual report by board

The board must, after each 30 June, present to the Legislative Assembly a report of the board's operations during the financial year ending on that date.

11 Part 3 heading

substitute

Part 2.3 Entitlements of members

12 Sections 12 to 14

substitute

12 Eligibility

A person who holds, or has held, office as a member is eligible on the person's discontinuance to receive benefits under this chapter in relation to the person's relevant period of service.

13 Members' contributions

A member must pay 5% of the member's salary into the territory banking account in respect of superannuation benefits.

**13 Superannuation benefit
New section 15 (5)**

insert

(5) In this section:

office-holder means a member who receives additional salary under the remuneration tribunal's determination in relation to the Legislative Assembly.

**14 Death or invalidity benefit
Section 16 (2)**

omit

the member has been a contributing member

substitute

in the member's relevant period of service

**15 Payment to estate
Section 17**

omit

this Act

substitute

this chapter

16 Section 18

substitute

18 Preservation of benefit

- (1) This section applies to a person who becomes entitled to a superannuation benefit under this chapter if the person—
 - (a) is less than 55 years old; or
 - (b) is at least 55 years old but remains a member of the workforce.
- (2) The benefit is payable—
 - (a) if the person is leaving Australia permanently or the entitlement is because of a discontinuance caused by the person's death or invalidity—immediately to the person; or

- (b) in any other case—
 - (i) to an eligible choice fund chosen by the person; or
 - (ii) if the person does not choose an eligible choice fund within 3 months after the day the person becomes entitled to the benefit—the default fund.
- (3) For subsection (2) (b) (i), the choice must be in writing given to the board.

18A Members may transfer to choice of funds scheme

- (1) A member may elect to transfer the amount of the member's benefits under this chapter to a fund chosen by the member under section 23 (Choice of fund by members).
- (2) An election must be in writing given to the board.
- (3) The board must—
 - (a) determine the amount of the member's benefit under section 15 (Superannuation benefit) as if the member were entitled to receive a benefit under section 12 (Eligibility); and
 - (b) pay the amount to the fund.

17 Part 4 heading

substitute

Part 2.4 Review of board's decisions

18 Part 5*substitute***Chapter 3 Choice of funds scheme****22 Application—ch 3**

This chapter applies to a person who is elected as a member at or after the 2008 general election, other than someone to whom chapter 2 (Defined benefits scheme) applies.

Note **Elected**—see the dictionary.

23 Choice of fund by members

- (1) A member may choose an eligible choice fund to which contributions under section 24 are to be paid for the member's benefit.
- (2) The member may change the member's choice.
- (3) The choice, or change of choice, must be in writing given to the Speaker.

24 Territory contributions

- (1) The Territory must pay the prescribed amount for a member to the relevant fund for the member.
- (2) In this section:

designated percentage means—

- (a) 14%; or
- (b) if another percentage is prescribed by regulation—the prescribed percentage.

prescribed amount, in relation to a member, means—

- (a) if the member has made an election under section 18A (Members may transfer to choice of funds scheme) and a discontinuance is taken not to apply to the member after the election was made—an amount equal to 24% of the member's salary for each year, or part of a year, that the member is a member of the Legislative Assembly; or
- (b) in any other case—
 - (i) an amount equal to the designated percentage of the member's salary for each year, or part of a year, that the member is a member of the Legislative Assembly; and
 - (ii) if, for a period, the member contributes to the member's relevant fund at the rate of 3% or more of the member's salary for the period—an additional amount equal to 1% of the member's salary for the period.

relevant fund, in relation to a member, means—

- (a) if a choice under section 18A (Members may transfer to choice of funds scheme) or section 23 (Choice of fund by members) has been made by the member—the chosen fund; or
- (b) in any other case—the default fund.

Chapter 4 Miscellaneous

25 Regulation-making power

The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Chapter 10 Transitional—Superannuation (Legislative Assembly Members) Amendment Act 2008

100 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Superannuation (Legislative Assembly Members) Amendment Act 2008*.
- (2) A regulation may modify this chapter (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this chapter.
- (3) A regulation under subsection (2) has effect despite anything in this or another territory law.

101 Expiry—ch 10

This chapter expires 1 year after the day it commences.

19 Dictionary

substitute

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1 defines the following terms:

- administrative appeals tribunal

- Deputy Speaker
- exercise
- function
- Legislative Assembly
- remuneration tribunal
- Self-Government Act
- Speaker.

board, for chapter 2 (Defined benefits scheme)—see section 3C.

default fund means—

- (a) First State Super; or
- (b) if another eligible choice fund is prescribed by regulation—the prescribed fund.

discontinuance—see section 3A.

elected, in relation to a member, includes a person declared elected under either of the following provisions of the *Electoral Act 1992*:

- (a) section 194 (1) (Determination of candidate to fill vacancy);
- (b) section 195 (1) (Assembly nominees).

eligible choice fund means an eligible choice fund under the *Superannuation Guarantee (Administration) Act 1992* (Cwlth), section 32D.

general election means a general election of members.

invalidity, for chapter 2 (Defined benefits scheme)—see section 3C.

member means a member of the Legislative Assembly.

relevant period of service, for chapter 2 (Defined benefits scheme)—see section 3C.

salary, of a member, means the member's salary including any additional salary but not including allowances.

Schedule 1 Technical amendments

(see s 3)

[1.1] Section 15 (1)

omit

his or her

substitute

the person's

[1.2] Section 15 (3)

omit

his or her

substitute

the member's

[1.3] Section 15 (3), definition of *TSPM*

omit

he or she

substitute

the member

[1.4] Section 15 (4)

omit

his or her

substitute

the person's

[1.5] Section 16 (1) (b)

omit

his or her

substitute

the member's

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 7 August 2008.

2 Notification

Notified under the Legislation Act on 3 September 2008.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Superannuation (Legislative Assembly Members) Amendment Bill 2008, which was passed by the Legislative Assembly on 21 August 2008.

Clerk of the Legislative Assembly

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