



AUSTRALIAN CAPITAL TERRITORY

Territory Superannuation Provision Protection Act 2000

No 21 of 2000

An Act to provide for the protection of funds dedicated to meeting the superannuation liabilities of the Territory, Territory authorities and Territory owned corporations, and for other purposes

[Notified in ACT Gazette No. 24: 15 June 2000]

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

1 Name of Act

This Act is the *Territory Superannuation Provision Protection Act 2000*.

2 Commencement

This Act commences on 1 July 2000.

3 Object of Act

The object of this Act is to ensure that funds dedicated to meeting the superannuation liabilities of the Territory, Territory authorities and Territory owned corporations remain dedicated to meeting those liabilities.

4 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition '*appropriation*'—see the Financial Management Act, section 3' means that the expression 'appropriation' is defined in section 3 of the *Financial Management Act 1996* and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Interpretation Act 1967*, s 11F and s 11G).

5 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See *Interpretation Act 1967*, s 12 (1), (4)-(5) for the legal status of notes.

6 Establishment of superannuation department

The Treasurer must, under paragraph (b) of the definition of *department* in section 3 of the Financial Management Act, establish and keep a department for this Act.

7 Superannuation banking accounts

(1) The chief executive of the superannuation department must open and keep 1 or more banking accounts (*superannuation banking accounts*) solely for the management of the superannuation assets and liabilities of the Territory, Territory authorities and Territory owned corporations.

(2) A superannuation banking account is a departmental banking account of the superannuation department.

8 Payment of superannuation appropriations

An amount appropriated by a superannuation appropriation may only be paid out of the Territory banking account to be credited to a superannuation banking account.

9 Payments from superannuation banking accounts

An amount from a superannuation appropriation may only be paid out of a superannuation banking account—

- (a) to meet the liabilities of the Territory to provide superannuation benefits in relation to—
 - (i) members of the Legislative Assembly; or

- (ii) members of the staff of a member of the Legislative Assembly; or
- (b) to meet the liabilities of the Territory, a Territory authority or a Territory owned corporation to provide superannuation benefits in relation to its officers or employees; or
- (c) to pay fees owing to a body that manages a superannuation scheme of which an officer or employee of the Territory, a Territory authority or a Territory owned corporation is a member in his or her capacity as such an officer or employee; or
- (d) to pay actuarial fees and other administrative costs and expenses incurred by the superannuation department in administering money provided for superannuation entitlements in relation to members of the Legislative Assembly, members of the staff of members of the Legislative Assembly or officers or employees of the Territory, Territory authorities or Territory owned corporations; or
- (e) for transfer to another superannuation banking account; or
- (f) for investment in accordance with section 11.

10 Closure of superannuation banking accounts

If a superannuation banking account is closed, any amount standing to the credit of the account immediately before it is closed must be paid into another superannuation banking account.

11 Investment of amounts in superannuation banking accounts

(1) An amount in a superannuation banking account that is not immediately needed for a purpose mentioned in paragraphs 9 (a) to (e) may be invested—

- (a) on deposit with an authorised deposit-taking institution; or
- (b) in Territory, State or Commonwealth securities; or
- (c) in any prescribed investment.

(2) Transfers between the Territory banking account and superannuation banking accounts to facilitate investment may be made without appropriation.

(3) Interest received by the Territory for the investment of amounts from a superannuation banking account must be paid into a superannuation banking account.

(4) However, if an investment of an amount from a superannuation banking account is made or managed by a department, the department may

deduct from the interest received by the Territory for the investment a fee charged by the department for making or managing the investment.

(5) A fee charged by a department under subsection (4) may not be more than the costs and expenses incurred by the department in making or managing the investment.

(6) Interest that is to be paid into a superannuation banking account under subsection (3) may be paid into the account directly or through the Territory banking account.

12 Interest on money appropriated for superannuation

(1) A superannuation appropriation, whether made before or after the commencement of this Act, is taken to be an appropriation of—

- (a) the amount stated in the appropriation; and
- (b) any interest received on the investment of that amount, or any part of it, under this Act.

(2) Interest received by the Territory on an investment under this Act of an amount from a superannuation appropriation must be applied for the purposes for which the amount invested was appropriated.

(3) However, if an investment of an amount from a superannuation appropriation is made or managed by a department, the department may deduct from the interest received by the Territory for the investment a fee charged by the department for making or managing the investment.

(4) A fee charged by a department under subsection (3) may not be more than the costs and expenses incurred by the department in making or managing the investment.

13 Appropriation of certain amounts paid by Territory authorities and Territory owned corporations

An amount paid to the Territory by a Territory authority or a Territory owned corporation, whether before or after the commencement of this Act, as part of an arrangement for the management of the superannuation liabilities of the authority or corporation, and any interest earned on the investment of such an amount, are appropriated for the purpose of making payments to satisfy superannuation liabilities of the Territory.

14 Additional provisions for superannuation

(1) Despite section 6 of the Financial Management Act, the Treasurer may, if the Treasurer considers it appropriate to do so, authorise payment of a

stated amount of public money of the Territory that is not required for non-superannuation purposes into a superannuation banking account.

- (2) An authorisation under subsection (1) is a disallowable instrument.
- (3) An authorisation under subsection (1) takes effect—
 - (a) on the day after the last day when it could have been disallowed under section 6 of the *Subordinate Laws Act 1989*; or
 - (b) on a later day stated in the authorisation;

unless the authorisation is disallowed under section 6 of that Act.

- (4) In this section:

non-superannuation purposes means purposes other than meeting, or providing for, present or future unfunded liabilities of the Territory, Territory authorities or Territory owned corporations for superannuation benefits for persons mentioned in paragraph 9 (a) or (b).

15 Investments made from superannuation provision account

- (1) An amount that—
 - (a) was appropriated for superannuation and paid into—
 - (i) the ACT Superannuation Provision Trust Account established under subsection 85 (2) of the *Audit Act 1989*; or
 - (ii) the superannuation provision account; and
 - (b) has been invested in investments that were current on the commencement of this Act;

must, on the repayment of the amount invested, be paid into 1 or more superannuation banking accounts.

- (2) Interest on an amount invested as mentioned in subsection (1) that is paid after the commencement of this Act must be paid into a superannuation banking account.
- (3) Interest that is to be paid into a superannuation banking account under subsection (2) may be paid into the account directly or through the Territory banking account.

16 Superannuation management guidelines

- (1) The Treasurer may issue superannuation management guidelines prescribing matters—
 - (a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A guideline is a disallowable instrument for the *Subordinate Laws Act 1989*.

17 Winding up of superannuation provision account

(1) The amount standing to the credit of the superannuation provision account on the commencement of this Act must, within 7 days after the commencement, be paid into 1 or more superannuation banking accounts.

(2) This section ceases to have effect on 1 August 2000.

18 Amendments of Financial Management Act

The Schedule amends the *Financial Management Act 1996*.

SCHEDULE

(See s 18)

AMENDMENTS OF FINANCIAL MANAGEMENT ACT 1996

Section 2—

Repeal the section, substitute the following section:

“2 Act subject to Territory Superannuation Provision Protection Act

This Act is subject to the *Territory Superannuation Provision Protection Act 2000*.”.

Section 3, heading—

Omit the heading, substitute the following heading:

“3 Definitions”.

Subsection 3 (1) (definition of *Territory authority*)—

Omit “subsection (2)”, substitute “section 3A”.

Subsection 3 (1)—

Insert the following definitions:

“*superannuation appropriation*—see the *Territory Superannuation Provision Protection Act 2000*, dictionary.

***superannuation banking account*—**see the *Territory Superannuation Provision Protection Act 2000*, section 7.”.

Subsection 3 (2)—

Omit the subsection, substitute the following section:

“3A Declaration that certain authorities are not Territory authorities for this Act

“(1) The Treasurer may declare that a stated body is not a Territory authority for this Act.

“(2) The Treasurer must publish in the Gazette notice of the making of a declaration under this section as soon as practicable after it is made.”.

Section 14—

Add at the end the following subsection:

“(5) Subsection (1) does not apply to a superannuation appropriation.”.

SCHEDULE—continued

Section 16—

Add at the end the following subsection:

“(3) This section does not apply to a superannuation appropriation.”.

Subsection 37 (1)—

Omit “Subject to subsection 38 (2), money”, substitute “Money”.

Section 37—

Add at the end the following subsection:

“(3) This section is subject to—

- (a) subsection 11 (2) of the *Territory Superannuation Provision Protection Act 2000* (which is about transfers between the Territory banking account and departmental banking accounts to facilitate investment of superannuation funds); and
- (b) subsection 38 (2) of this Act (which is about transfers between the Territory banking account and departmental banking accounts to facilitate investment of other public money).”.

Section 38, heading—

Omit the heading, substitute the following heading:

“**38 Investment of certain public money**”.

Subsection 38 (3)—

After “public money”, insert “under this section”.

Subsection 38 (4)—

Omit the subsection, substitute the following subsections:

“(4) The Treasurer may decide the amounts of interest from investments under this section that are to be credited to departmental banking accounts.

“(5) The amounts decided by the Treasurer may be paid from the Territory banking account without further appropriation.

“(6) However, the total of the amounts paid under subsection (5) must not exceed the total of the interest received from investments under this section.

“(7) This section does not apply to money held in a superannuation banking account.”.

DICTIONARY

(See s 4)

appropriation—see the Financial Management Act, section 3.

department—see the Financial Management Act, section 3.

Financial Management Act—means the *Financial Management Act 1996*.

interest includes a dividend and any other financial return on a deposit, loan or other investment.

prescribed means prescribed by the superannuation management guidelines.

securities—see the Financial Management Act, section 3.

superannuation appropriation means an appropriation to the superannuation department declared by the Act by which it is made to be for superannuation and includes—

- (a) an appropriation made before the commencement of this Act to—
 - (i) the department known as the ACT Superannuation Provision Unit; or
 - (ii) the department known as the ACT Superannuation and Insurance Provision Unit; and
- (b) a payment under an authorisation under section 14.

superannuation banking account—see section 7.

superannuation department means the department established under section 6.

Superannuation management guidelines means the guidelines issued under section 16.

superannuation provision account means the banking account kept by the Department of Treasury and Infrastructure immediately before the commencement of this Act that was known as the Superannuation Provision Account.

Territory authority—see the Financial Management Act, section 3.

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DICTIONARY—continued

Territory banking account—see the Financial Management Act, section 3.

Treasurer—see the Financial Management Act, section 3.

[Presentation speech made in Assembly on 30 March 2000]

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