



NORTHERN TERRITORY OF AUSTRALIA

ADMINISTRATIVE INSTRUCTIONS

UNDER

LEGISLATIVE ASSEMBLY MEMBERS' SUPERANNUATION FUND  
ACT

As in force from 22 August 2014

These Administrative Instructions provide information for the treatment of family law splits relevant for pension members of the Legislative Assembly Members' Superannuation Scheme, in terms of reducing the members' interest and determining the spouse's interest.

### **1. Administrative Instruction – Authorisation**

This Administrative Instruction is authorised under section 25C(4) of the *Legislative Assembly Members' Superannuation Fund Act*.

### **2. Date of Commencement**

These Administrative Instructions take effect on 22 August 2014.

### **3. Definitions**

<u>Annuity factor</u>	Pension capitalisation factor that takes into account age, gender, indexation and presence or absence of a reversionary right.
<u>Base Amount</u>	Base amount allocated to the non-member spouse, in accordance with regulation 45 of the <i>Family Law (Superannuation) Regulations 2001</i> .
<u>Member spouse (MS)</u>	In relation to a superannuation interest, means the spouse who has the superannuation interest (s90MD of the <i>Family Law Act 1975</i> ).
<u>Member spouse pension</u>	Pension received by the member spouse.
<u>Non-member spouse (NMS)</u>	In relation to a superannuation interest, means the spouse who is not the member spouse in relation to that interest (s90MD of the <i>Family Law Act 1975</i> ).
<u>Non-member spouse pension</u>	Pension received by the non-member spouse.
<u>Non-reversionary</u>	Characteristic of pension; on death of the pensioner, the pension ceases.
<u>Reversionary</u>	Characteristic of pension; on death of the pensioner, the pension reverts to one or more dependents (at a reduced rate).
<u>Value of member spouse pension benefit</u>	Determined for a pensioner as an annual pension multiplied by the annuity factor.

### **4. Prerequisites**

Only court orders or agreements which specify a base amount can be accepted by the Trustee.

The formulas for calculating the non-member spouse entitlement and the member spouse's pension reduction, both require a Base Amount. The Base Amount is determined either by Family Court Order or by settlement between the parties.

The following annuity factors (as updated from time to time) are to be utilised as pension valuation factors when applying the methods in this administrative instruction. Different factors apply where there is a reversionary or non-reversionary pension entitlement. These annuity factors are to be updated as part of the actuarial triennial review.

Note: Annuity factors in the *Family Law (Superannuation) Regulations 2001* remain appropriate for the purposes set out in those Regulations.

**LAMS Annuity factors for family law interest adjustments based on 2013 triennial valuation**

Age at relevant date (last birthday)	Reversionary male	Reversionary female	Non-reversionary male	Non- reversionary female
35	30.8	30.8	29.5	30.0
36	30.5	30.5	29.2	29.7
37	30.2	30.2	28.9	29.4
38	29.9	29.9	28.6	29.1
39	29.6	29.6	28.2	28.7
40	29.3	29.3	27.9	28.4
41	29.0	29.0	27.5	28.1
42	28.7	28.7	27.2	27.7
43	28.4	28.3	26.8	27.4
44	28.0	28.0	26.4	27.0
45	27.7	27.7	26.1	26.6
46	27.3	27.3	25.7	26.3
47	27.0	26.9	25.3	25.9
48	26.6	26.6	24.9	25.5
49	26.2	26.2	24.4	25.1
50	25.8	25.8	24.0	24.7
51	25.4	25.4	23.6	24.2
52	25.0	25.0	23.1	23.8
53	24.6	24.6	22.7	23.4
54	24.2	24.1	22.2	22.9
55	23.7	23.7	21.7	22.5
56	23.3	23.2	21.2	22.0
57	22.8	22.8	20.8	21.5
58	22.4	22.3	20.3	21.0
59	21.9	21.8	19.8	20.5
60	21.4	21.3	19.2	20.0
61	20.9	20.9	18.7	19.5
62	20.4	20.3	18.2	19.0
63	19.9	19.8	17.7	18.5
64	19.4	19.3	17.1	17.9
65	18.8	18.8	16.6	17.4
66	18.3	18.2	16.0	16.8
67	17.8	17.7	15.5	16.3
68	17.2	17.1	14.9	15.7
69	16.6	16.5	14.3	15.2
70	16.0	15.9	13.8	14.6
71	15.5	15.4	13.2	14.0
72	14.9	14.8	12.7	13.4
73	14.3	14.2	12.1	12.9
74	13.7	13.6	11.5	12.3
75	13.1	13.0	11.0	11.7
76	12.5	12.4	10.4	11.1
77	11.9	11.8	9.9	10.6
78	11.3	11.2	9.4	10.0
79	10.7	10.6	8.8	9.5
80	10.1	10.0	8.3	8.9

## 5. Member spouse pension reduction

Where, as the result of a family law split, a non-member spouse is entitled to a share of the member spouse's pension, the member spouse's pension shall be reduced according to the following formula:

$$R = V \times (1 - A)$$

where:

R is the amount of the reduced pension benefit.

V is the amount of the annual pension benefit that would have been payable to the member spouse if the family law superannuation payment had not been made.

A is the ratio of the *value of the benefit* in respect of the non-member spouse to the *value of the benefit* of the member spouse when the payment split occurred.

$$A = \frac{\text{Base Amount}}{\text{MS pension value before reduction}}$$

$$\text{MS pension value before reduction} = \text{Annual pension} \times \text{MS annuity factor}$$

### Example 1:

The member spouse is a 65-year-old male who is in receipt of a reversionary pension of \$50 000 per year. The member spouse annuity factor 18.8 applies. The non-member spouse is a 60-year-old female (entitled to a non-reversionary pension). The non-member spouse annuity factor 20 applies.

The Base Amount at the date of the split has been determined at \$300 000.

For the purpose of applying the formula

$$R = V \times (1 - A)$$

To determine A, the member spouse pension value before the reduction must be calculated by multiplying the member spouses annual pension with the corresponding annuity factor, in this case:

Step 1) Member spouse pension value before reduction:

$$\$50\,000 \times 18.8 = \$940\,000$$

Step 2)  $A = \frac{\text{Base Amount}}{\text{MS pension value before reduction}}$

$$A = \frac{\$300\,000}{\$940\,000}$$

$$A = 0.319$$

Step3)  $R = \$50\,000 \times (1 - 0.319) = \$34\,042.55$

The reduced member spouse annual pension is \$34 042.55.

**Note:** The member spouse's pension is not reduced by exactly the same dollar amount as the non-member spouse's pension entitlement. Due to the application of appropriate annuity factors for the member spouse and the non-member spouse, the pension reduction and entitlements are calculated separately.

## 6. Non-member spouse pension

The non-member spouse entitlement shall be determined by the following formula:

$$\text{Non – member spouse's annual pension} = \frac{\text{Base Amount}}{\text{NMS annuity Factor}}$$

Based on Example 1, the calculation of the non-member spouse pension is:

$$\text{Step 4) } \frac{\$300\,000}{20} = \$15\,000$$

The non-member spouse is entitled to an annual non-reversionary pension of \$15 000.

## 7. Commutation of non-member spouse pension

If, as a result of the family law split, the non-member spouse becomes entitled to a non-reversionary pension, the non-member spouse may commute all or part of that pension within the first six months of becoming entitled, in accordance with section 25D of the *Legislative Assembly Members' Superannuation Fund Act*. The new non-member spouse pension is indexed in the same way as other LAMS pensions, and is non-reversionary.

The method and formula determined by the scheme actuary to calculate the amount of a lump sum payment is as follows:

$$\text{Lump sum} = P \times S \times \left(15 - \frac{y}{2}\right)$$

where:

P is the proportion of pension to be converted to a lump sum.

S is the annual amount of the non-member spouse's pension entitlement.

y is the number of complete years over age 55 of the non-member spouse when making the election.

### Example 2:

Based on the values used in Example 1, the non-member spouse wishes to commute her entire pension entitlement of \$15 000 per year into a lump sum.

Since the non-member spouse is 60 years of age:

$$y = 5$$

$$\text{Lump sum} = 100\% \times \$15\,000 \times \left(15 - \frac{5}{2}\right) = \$187\,500$$

The non-member spouse is entitled to a lump sum of \$187 500, if she commuted her entire benefit.

**Note:** Calculation of the lump sum (commutation) for the non-member spouse is less than the Base Amount. This is because as a pension scheme, the non-member spouse's benefit is first calculated as a (notional) pension, and can only subsequently be commuted to a lump sum. Applying annuity factors for commutation to a lump sum incurs a "commutation penalty", the same as exists for member spouse pensioners when making a decision to take a lump sum.

### Example 3:

Based on the values used in Example 1, if the non-member spouse wishes to commute only part of the non-member spouse pension, there are two possible scenarios:

- 1) The non-member spouse provides a dollar amount to receive as a lump sum; or
- 2) the non-member spouse provides a percentage amount of her annual pension which she wants to commute.

Scenario 1: The reduction of the non-member spouse pension due to a commutation (for example \$100 000) is as follows:

$$\begin{aligned}\text{Step 1)} \quad \text{Lump sum} &= P \times S \times \left(15 - \frac{y}{2}\right) \\ 100\,000 &= P \times 15\,000 \times \left(15 - \frac{5}{2}\right) \\ P &= \frac{100\,000}{15\,000 \times 12.5} \\ P &= \frac{100\,000}{187\,500} \\ P &= 0.5333\end{aligned}$$

The elected lump sum of \$100 000 represents 53.33% of the total lump sum entitlement. In a second step, the non-member spouse's annual pension is reduced to the remaining 46.67%.

$$\begin{aligned}\text{Step 2)} \quad 100\% - 53.33\% &= 46.67\% \\ 46.67\% \times \$15\,000 &= \$7\,000\end{aligned}$$

After taking a \$100 000 lump sum, the non-member spouse is entitled to a residual annual pension of \$7 000.

Scenario 2: The non-member spouse provides the percentage amount which she wishes to commute to a lump sum (for example 40%) and receive the remainder (60%) as a pension.

$$\begin{aligned}\text{Step 1)} \quad \text{Lump sum} &= 0.4 \times \$15\,000 \times \left(15 - \frac{5}{2}\right) \\ \text{Lump sum} &= \$75\,000\end{aligned}$$

The remaining non-member spouse pension at 60% after commutation is determined as:

$$\text{Step 2)} \quad 0.6 \times \$15\,000 = \$9\,000$$

The non-member spouse will receive an annual pension of \$9 000 after commuting 40% of her pension.