|  |
| --- |
|  |
| NORTHERN TERRITORY OF AUSTRALIA |
|  |
| NORTHERN TERRITORY SUPPLEMENTARY SUPERANNUATION SCHEME |
| 1. INSTRUMENT IN WRITING
 |
| Consolidated Working Document Prepared by the Northern Territory Superannuation OfficeAs in force from 6 September 2021Last updated 6 September 2021 |
|  |

WHEREAS the Northern Territory of Australia desires to establish a scheme to provide superannuation benefits supplemental to the benefits provided by certain other superannuation schemes.

NOW WHEREFOR

The NORTHERN TERRITORY OF AUSTRALIA hereby establishes the scheme set out in the Schedule hereto.

SCHEDULE

1. NAME

The scheme shall be known as the Northern Territory Supplementary Superannuation Scheme.

2. DATE OF COMMENCEMENT

The date of commencement of the scheme shall be 1 January 1989.

3. DEFINITIONS

|  |  |
| --- | --- |
| Benefit | for an eligible employee, means a benefit calculated as follows : |
|  | (a) The greater of:(i) the amount B calculated using the following formula:B = 3 x S x D  100 365.25where:S is the employee’s supplementary superannuation salary;D is the employee’s period of full time equivalent service since 1 October 1988, measured in days;and(ii) the amount C calculated using the following formula:C = 50 x Mwhere:M is the employee’s period of full time equivalent service since 1 October 1988, measured in completed months;(b) minus the amount, if any, of the balance of the eligible employee’s surcharge debt account. |
| Commissioner | The Commissioner of Superannuation for the time being appointed pursuant to Section 4 of the *Superannuation Act*. |
| Dependant | Has the same meaning as in section 3AA of the *Superannuation Act*. |
| De facto partner | of a person, means a person who is in a de facto relationship with the person.  |
| De facto relationship | For this scheme, 2 persons are in a de facto relationship if they are not married but have a marriage-like relationship.*Note: For determining whether 2 persons are in a de facto relationship, the Commissioner will have regard to the matters set out in section 3A(2) and (3) of the De Facto Relationships Act 1991.* |
| Eligible Employees | All employees of the Territory, employees or officers of the Northern Territory Public Service, the Northern Territory Teaching Service, the Northern Territory Police Force; or Territory Public Authorities whether employed on a full‑time, part‑time, limited tenure, contract or casual basis who have completed the Qualifying Period of Service other than : |
|  | (a) an employee entitled to receive a benefit under the Tertiary Education Superannuation Scheme TESS); or |
|  | (b) an employee entitled to receive a benefit from another superannuation arrangement which, in the opinion of the Commissioner, is of a comparable nature to this scheme and declared in writing by the Commissioner; or  |
|  | (c) an employee or an employee belonging to a class of employees declared in writing by the Commissioner not to be an eligible employee or eligible employees for the purposes of the scheme; or |
|  | (d) a person employed in or appointed to, a statutory office (unless the office is declared in writing by the Commissioner not to be an office for the purposes of this paragraph), who is not - |
|  | (i) an employee in the Public Service; |
|  | (ii) an officer or employee of the Northern Territory Teaching Service; or |
|  | (iii) a member of the Police Force; or |
|  | (e) an employee who has elected to take a benefit under clause 6(4). |
| Gainful Employment | Engagement in any employment, occupation, vocation, profession, trade or business full‑time or part‑time for remuneration or other reward in money or money’s worth. |
| Invalidity | Shall be an assessment by the Commissioner, after considering medical and other relevant evidence, that the eligible employee is, or may be, unlikely ever to be able to work again in a job for which the eligible employee is, or may be, reasonably qualified by education, training or experience. |
| NTGPAS Scheme | Has the same meaning as in the *Superannuation Act*. |
| Period of Full‑time Equivalent Service | Means the period of continuous employment (after converting any periods of part‑time employment to a full‑time basis) of an eligible employee but does not include any periods of leave without pay which are not recognised for long service leave entitlements. |
|  | Employment shall be taken to be continuous notwithstanding that there may be an interval when an eligible employee transfers from one employer covered by the scheme to another covered by the scheme. The length of the interval shall be such period deemed reasonable in all the circumstances by the Commissioner. |
| Preservation Limit | Means $200 or such other amount as is declared in writing from time to time by the Commissioner. |
| Qualifying Service Period | 3 months continuous employment notwithstanding that this may be undertaken otherwise than on a full‑time basis. Continuous employment prior to the commencement date of the scheme shall be taken into account in the calculation of the qualifying period. |
| Spouse | In relation to an eligible employee or former eligible employee, means- |
|  | (a) a person to whom the person is validly married under the *Marriage Act 1961* of the Commonwealth; or |
|  | (b) a de facto partner; or  |
|  | (c) if the person is an Aboriginal or Torres Strait Islander – an Aboriginal or Torres Strait Islander to whom the person is married according to the customs and traditions of the particular community of Aboriginals or Torres Strait Islanders with which either person identifies. |
| Supplementary Superannuation Salary | For an eligible employee, means the amount that would be the employee’s contribution salary under the Northern Territory Government and Public Authorities’ Superannuation Scheme Rules 1986 if:(a) the employee were a member under those Rules; and(b) paragraphs (a) and (c) of the definition of “contribution salary” in rule 1 were amended to delete “entry date or annual review date” and insert instead “last day of duty”; and(c) rule 4(5) did not apply.Provided that:  |
|  | (i) where an eligible employee is employed on a part‑time or casual basis on his last day of duty, his Supplementary Superannuation Salary shall be expressed on a full‑time equivalent basis; and |
|  | (ii) where an eligible employee has suffered a reduction in salary due to redeployment, the salary will be based on the salary and approved allowances payable immediately before such reduction.  |
| Superannuation Act | means the *Superannuation Act 1986*. |
| Superannuation contributions surcharge | Means the superannuation contributions surcharge imposed under the Surcharge Act. |
| Surcharge Act | Means the *Superannuation Contributions Tax Imposition Act 1997* of the Commonwealth and includes regulations under that Act. |
| Surcharge Collection Act | Means the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* of the Commonwealth and includes regulations under that Act. |
| Territory Public Authorities | The public authorities listed in regulations made under the *Superannuation Act*. |

4. MANAGEMENT AND ADMINISTRATION

|  |  |
| --- | --- |
| (1) | The Commissioner shall be responsible for the management and administration of the scheme and shall make all payments on behalf of the Territory under the scheme. |
| (2) | Subject to guidelines as determined by the Treasurer from time to time, the scheme shall be administered and managed using the personnel and facilities of the Northern Territory Treasury and the cost of administering the scheme shall be borne by the Territory. |
|  (3) | The Commissioner shall have the power to retain on behalf of the Territory the services of professional advisers and managers, whether persons, firms or companies, in any matter relating to the management or administration of the scheme. |

4A. SCHEME TO COMPLY WITH SUPERANNUATION SURCHARGE LAWS AND AGREEMENTS WITH COMMONWEALTH

|  |  |
| --- | --- |
| (1) | The scheme is to be administered in accordance with - |
|  | (a) the Surcharge Act and the Surcharge Collection Act; and |
|  | (b) a written agreement entered into by the Territory and the Commonwealth relating to exempt public sector superannuation schemes within the meaning of section 10 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth. |
| (2) | If a provision of this Scheme is inconsistent with a provision of the Surcharge Act or the Surcharge Collection Act, the provision of this Scheme is to be taken to have been complied with if the provision of the Surcharge Act or the Surcharge Collection Act, as the case may be, has been complied with. |

4B. 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 within the accounts of the Scheme for each eligible employee in relation to whom superannuation contributions surcharge is paid or payable by the Commissioner. |
| (2) | The Commissioner must debit to the surcharge debt account of an eligible employee -  |
|  | (a) superannuation contributions surcharge paid or payable by the Commissioner in respect of the eligible employee; and |
|  | (b) interest paid or 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 an eligible employee an amount paid under clause 4C by the eligible employee. |

4C. ADVANCE PAYMENTS TO REDUCE SUPERANNUATION CONTRIBUTIONS SURCHARGE

|  |  |
| --- | --- |
| (1) | An eligible employee may, on lodging an election form with the Commissioner, pay an amount to the Scheme for the purpose of reducing the amount by which his or her surcharge debt account is in debit. |
| (2) | A payment under this clause may be made on a periodic or single payment basis.  |
| (3) | An election form lodged under subclause (2) is to be in the form approved by the Commissioner and is to specify the amount to be paid and the manner of payment. |
| (4) | An eligible employee may, on lodging with the Commissioner an election form in the form approved by the Commissioner -  |
|  | 1. vary in accordance with the form the amount or manner of payment of periodic payments; or
2. revoke an election under this clause.
 |

5. PAYMENTS

Payments made from time by the Territory under this scheme shall be from monies made available from the Central Holding Authority by appropriation or from a trust account kept under the *Financial Management Act 1995*.

6. BENEFITS

|  |  |
| --- | --- |
| (1) | The Territory shall pay to an eligible employee a benefit in the following circumstances : |
|  | (a) On an eligible employee attaining the age of 55 years or more and in the opinion of the Commissioner retiring from Gainful Employment. |
|  | (b) On an eligible employee ceasing to be employed by reason of invalidity. |
|  | (c) On an eligible employee ceasing to be employed and the benefit being less than the Preservation Limit. |
|  | (d) On an eligible employee ceasing to be employed and in such other special or exceptional circumstances as the Commissioner may, in his absolute discretion, determine. |
| (2) | (a) On the death of an eligible employee the Territory shall, at the discretion of the Commissioner, pay the benefit either to the personal representatives of the eligible employee on production to the Commissioner of probate of the will or letters of the administration of the estate or to a dependant or dependants of the deceased eligible employee. |
|  | (b) Where |
|  | (i) the production to the Commissioner of probate of the will, or letters of administration of the estate, has not been arranged; |
|  | (ii) the Commissioner has not, within 3 months after the death of the eligible employee, received notice of intention to apply for a grant of probate of the will, or the letters of administration of the estate, of the deceased; and |
|  | (iii) at the time of the death of the eligible employee, there was no person dependent on him |
|  |  the Commissioner may, after paying the funeral expenses of the deceased or reimbursing a person who has paid those expenses, pay the balance to some other person. |
| (3) | (a) Where an eligible employee ceases to be employed in circumstances not specified in (1) or (2) above, the Territory shall, with the consent in writing of the eligible employee, pay the benefit to  |
|  | (i) another superannuation scheme or fund for the benefit of the eligible employee; or |
|  | (iii) a recognised organisation for the purpose of the provision of a deferred annuity for an eligible employee and/or his or her dependants. |
|  | (b) If no such consent, in writing, is received by the Commissioner within 2 months of the eligible employee ceasing to be employed, the Commissioner may at the Commissioner’s discretion pay the benefit on behalf of the eligible employee to the Commonwealth Commissioner of Taxation in accordance with clause 14. |
|  | (c) The Commissioner shall, when paying any benefits as aforesaid, require that the Trustee or other administrator of the said superannuation scheme or fund or recognised organisations undertake that the said benefit shall not be paid to or in respect of the eligible employee prior to the date on which it would be paid to or in respect of the eligible employee under the provisions of this scheme. |
| (4) | (a) An eligible employee who has attained the preservation age (as defined in the Superannuation Industry (Supervision) Regulations 1994 (Cth)) may, in a form approved by the Commissioner, elect to take a benefit under this subclause. |
|  | (b) If an eligible employee who is a member under the NTGPAS Scheme makes an election under rule 6A(1) of the Northern Territory Government and Public Authorities’ Superannuation Scheme Rules 1986 to take a benefit under that rule, the election also takes effect as an election under subclause (4)(a). |
|  | (ba) If an eligible employee who is a member under the Commonwealth Superannuation Scheme ceases contributory membership of that Scheme, that cessation takes effect as an election under subclause (4)(a). |
|  | (c) If an eligible employee makes an election under subclause (4)(a) the Territory must pay the benefit as mentioned in subclause (3)(a) or (b) as if the employee had ceased to be employed. |

7. PAYMENT WHERE ELIGIBLE EMPLOYEE INCAPABLE

|  |  |
| --- | --- |
| (1) | Where an eligible employee or former eligible employee to whom a benefit under this scheme is payable is, in the opinion of the Commissioner, incapable of administering his own affairs by reason of illness, imprisonment or any other cause, the Commissioner may pay the benefit to the Public Trustee for which benefit the receipt of the Public Trustee is a good discharge of the obligation under the scheme of the Commissioner. |
| (2) | A payment made under Sub‑clause (1) shall be deemed to have been made to the person entitled to the benefit. |

8. RELEASE OF AMOUNTS TO PAY TAX DEBTS

|  |  |
| --- | --- |
| (1) | This clause applies if: |
|  | (a) an eligible employee is entitled to payment of a benefit under clause 6; and |
|  | (b) the Commonwealth Commissioner of Taxation (the ***ATO***) issues a release authority (as defined in section 45DA of the *Superannuation Act*) for the eligible employee; and |
|  | (c) the release authority is given to the Commissioner in accordance with the relevant Commonwealth Act. |
| (2) | On receipt of the request, the Commissioner may pay the release amount: |
|  | (a) to the ATO; or |
|  | (b) if the relevant Commonwealth Act permits and the eligible employee so requests – to the eligible employee. |
| (3) | The ***release amount*** is whichever of the following is the least: |
|  | (a) the amount authorised by the release authority to be paid; |
|  | (b) the amount the eligible employee or the ATO requests to be paid; |
|  | (c) the amount of the benefit mentioned in subclause (1)(a). |
| (4) | On payment of an amount under subclause (2), the amount of the benefit mentioned in subclause (1)(a) is reduced by the amount paid under subclause (2). |

9. INFORMATION

|  |  |
| --- | --- |
| (1) | An eligible employee or former eligible employee may, at any time, request the Commissioner to provide him with information about his entitlements under the scheme, and the Commissioner shall, as soon as practicable, supply the information requested. |
| (2) | The Commissioner may, at any time, require an eligible employee or the employer of an eligible employee to provide to the Commissioner such information relating to the remuneration of the employee, or such other information relevant to the administration of the scheme, as the Commissioner requires, and the member or the employer, as the case may be, shall provide the information accordingly. |

10. ACCOUNTS

The Commissioner shall cause to be kept proper accounts and records of the transactions and affairs of the scheme and shall do all things necessary to ensure that all payments of benefits are correctly made and properly authorised.

11. AUDIT

The accounts and records of the scheme shall be audited by the Auditor‑General pursuant to Part 3 of the *Audit Act 1995*.

12. REPORT ON OPERATIONS

The Commissioner shall provide the Treasurer with a report on the operations of the scheme during each financial year as soon as practicable after the end of the financial year.

13. CLAIM FOR BENEFIT UNDER SCHEME

|  |  |
| --- | --- |
| (1) | An eligible employee or other person entitled or claiming to be entitled to a benefit under the scheme may apply to the Commissioner, in the approved form and manner, for the payment of that benefit to him. |
| (2) | The Commissioner shall, as soon as practicable after receiving an application under Sub‑clause (1), make a decision on the application. |
| (2A) | On making a decision, the Commissioner must give the applicant a written notice setting out: |
|  | (a) the Commissioner's decision; and |
|  | (b) either: |
|  | (i) the Commissioner's reasons for the decision; or |
|  | (ii) that the applicant has a right to request written reasons under subclause (3); and |
|  | (c) that the applicant has a right under Part 5A of the *Superannuation Act* to have the decision reviewed. |
| (3) | An applicant may, in writing, require the Commissioner to give his reasons in writing for his decision on the application and the Commissioner shall give his reasons accordingly. |
| *Note* | *Under Part 5A of the Superannuation Act, a person aggrieved by a decision under this NTSS Scheme relating to the person may seek to have the decision reviewed by the Commissioner, and if the person is still aggrieved, by the Civil and Administrative Tribunal.* |

14. PAYMENT TO COMMONWEALTH COMMISSIONER OF TAXATION

The Commissioner may pay the amount of an eligible employee’s benefit to the Commonwealth Commissioner of Taxation in accordance with section 22(1) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (Cth), if the Commissioner believes on reasonable grounds that paying the amount to the Commonwealth Commissioner of Taxation is in the best interests of the person to whom the benefit would otherwise be payable.

15. AMENDMENTS TO THE SCHEME

The Territory may at any time by Instrument in writing signed by the Treasurer amend the provisions of this Instrument.

This Instrument is made 4th day of January 1989.

|  |  |
| --- | --- |
| Signed by | Treasurer of the Northern Territory  |
|  |  |