



Australian Capital Territory

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

**A1991-93**

**Republication No 3**

**Effective: 2 June 2005 – 11 April 2007**

Republication date: 2 June 2005

Last amendment made by A2005-20

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Superannuation (Legislative Assembly Members) Act 1991* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 2 June 2005. It also includes any amendment, repeal or expiry affecting the republished law to 2 June 2005.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Superannuation (Legislative Assembly Members) Act 1991

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Australian Capital Territory

# Superannuation (Legislative Assembly Members) Act 1991

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

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## Part 1 Preliminary

### 1 Short title

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

### 3 Definitions for Act

In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

***approved deposit fund*** means a fund that—

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

***approved purposes***, in relation to a fund—see the *Occupational Superannuation Standards Act 1987* (Cwlth).

***approved rules***—see the *Occupational Superannuation Standards Act 1987* (Cwlth).

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

***contributing member*** includes—

- (a) a member of the 2nd Assembly or of any subsequent Assembly; and
- (b) a former member of the 1st Assembly who elected to and did contribute to the consolidated revenue fund in accordance with section 13 or 14 as in force before 1 July 1996; and

- (c) a former member of the 1st Assembly who elects to and does make a payment into the Territory bank account in accordance with section 13 or 14 as in force on and after that date.

**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 the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), section 10, but does not occur when that member is re-elected to the Legislative Assembly—

- (a) at the 1st 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* (Cwlth) approves.



## **Part 2**                      **Legislative Assembly Members Superannuation Board**

### **Division 2.1**              **Establishment, functions and powers of board**

#### **4**                      **Establishment**

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

#### **5**                      **Functions**

- (1) The board shall be responsible for the administration of this Act.
- (2) Without limiting 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.

#### **6**                      **Powers**

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 2.2**              **Constitution and meetings**

#### **7**                      **Constitution**

- (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; and
  - (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; and

- (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 chief executive of the administrative unit responsible for the *Financial Management Act 1996*.

- (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.

## **8 Chairperson**

The Speaker or, where applicable, the Deputy Speaker of the Legislative Assembly shall be the chairperson of the board.

## **9 Secretary**

The Under Treasurer shall be secretary of the board.

## **10 Meetings**

- (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.

## **11 Procedure at meetings**

- (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 3 Entitlements of members

### 12 Eligibility

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.

### 13 Members' contributions

- (1) A contributing member shall pay 5% of his or her salary, including additional salary but not including allowances, into the Territory bank account in respect of superannuation benefits.
- (2) A member of the 1st 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; or
  - (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 subsection (2) (a) or (b) that member shall, within 30 days after so electing or within such further period as the board in writing allows, pay into the Territory bank account 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 1st 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.

#### 14 Entitlements of former members

- (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 pay 5% of the salary he or she received during his or her term of office as a member into the Territory bank account 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—
- (a) elected to and did contribute in accordance with subsection (1) as in force before 1 July 1996; or
- (b) elects to and does contribute in accordance with that subsection as in force after that date;
- shall be taken to have been a contributing member during his or her term of office as a member.

#### 15 Superannuation benefit

- (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 following formula:

$$BSD \times SPA$$

where:

***BSD*** means the basic salary payable, on the date of that person's discontinuance, to members who are not office-holders.

***SPA*** means 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 following formula:

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

where:

*TSR* means the total salary received by that member during that financial year.

*TSPM* means 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 following formula:

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

where:

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

**16 Death or invalidity benefit**

- (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.

**17 Payment to estate**

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.

**18 Preservation of benefit**

- (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; or
- (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 4                      Review of decisions

### 19                      Board to reconsider

- (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.

### 20                      Notice of reconsideration

- (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 confirming, revoking or varying the decision, as the case may be.
- (2) A notice under subsection (1) shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

### 21                      Applications to administrative appeals tribunal

Applications may be made to the administrative appeals tribunal for review—

- (a) of a decision of the board under section 19 (1) to refuse to permit an extension of the period; and
- (b) of reviewable decisions that have been confirmed or varied under section 19 (3).

## **Part 5                      Miscellaneous**

### **22                      Annual report**

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.

### **23                      Regulation-making power**

The Executive may make regulations for this Act.

*Note*                      Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

#### **Superannuation (Legislative Assembly Members) Act 1991 No 93** notified 24 December 1991 (Gaz 1991 No S155)

## Endnotes

### 4 Amendment history

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s 1, s 2 commenced 24 December 1991 (s 2 (1))  
remainder commenced 6 January 1992 (s 2 (2) and Gaz 1992 No S1)

as amended by

#### **Administrative Appeals (Consequential Amendments) Act 1994 No 60 sch 1**

notified 11 October 1994 (Gaz 1994 No S197)  
s 1, s 2 commenced 11 October 1994 (s 2 (1))  
sch 1 commenced 14 November 1994 (s 2 (2) and Gaz 1994 No S250)

#### **Financial Management and Audit (Consequential and Transitional Provisions) Act 1996 No 26 sch pt 33**

notified 1 July 1996 (Gaz 1996 No S130)  
sch pt 33 commenced 1 July 1996 (s 2)

#### **Legislation (Consequential Amendments) Act 2001 No 44 pt 372**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 372 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

#### **Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.63**

notified LR 12 May 2005  
s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))  
sch 3 pt 3.63 commenced 2 June 2005 (s 2 (1))

## 4 Amendment history

### **Commencement**

s 2 om 2001 No 44 amdt 1.3946

### **Definitions for Act**

s 3 def *contributing member* am 1996 No 26 sch pt 33

### **Establishment, functions and powers of board**

div 2.1 hdg (prev pt 2 div 1 hdg) renum R2 LA

### **Constitution and meetings**

div 2.2 hdg (prev pt 2 div 2 hdg) renum R2 LA

### **Constitution**

s 7 am A2005-20 amdt 3.403

### **Members' contributions**

s 13 am 1996 No 26 sch pt 33

**Entitlements of former members**

s 14 am 1996 No 26 sch pt 33

**Notice of reconsideration**

s 20 am 1994 No 60 sch 1

**Applications to administrative appeals tribunal**

s 21 am 1994 No 60 sch 1

**Regulation-making power**

s 23 sub 2001 No 44 amdt 1.3947

**5 Earlier republications**

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

<b>Republication No</b>	<b>Amendments to</b>	<b>Republication date</b>
1	1994 No 60	28 February 1995
2	A2001-44	20 December 2001

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