NORTHERN TERRITORY OF AUSTRALIA

UNCLAIMED SUPERANNUATION BENEFITS ACT

As in force at 1 July 2010

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NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Act as in force at 1 July 2010. Any amendments that commence after that date are not included.

UNCLAIMED SUPERANNUATION BENEFITS ACT

An Act to provide for the payment of unclaimed superannuation benefits to the Treasurer and for related purposes

1 Short title

This Act may be cited as the *Unclaimed Superannuation Benefits Act*.

2 Definitions

In this Act, unless the contrary intention appears:

Commonwealth Act means the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth as amended from time to time or as modified from time to time under section 332 of that Act.

exempt public sector superannuation scheme means an exempt public sector superannuation scheme as defined in the Commonwealth Act.

data processing device means an article or material (including a disc) from which information is capable of being reproduced with or without the aid of any other article or device.

fund means:

(a) a fund as defined in Part 22 of the Commonwealth Act; and

(b) an exempt public sector superannuation scheme.

half-year means a period of 6 months ending on 30 June or 31 December.

trustee means a trustee as defined in the Commonwealth Act.

unclaimed superannuation benefit means an amount of money that is taken by Part 22 of the Commonwealth Act to be unclaimed money.

3 Application of Act

This Act applies to a fund and the trustee of a fund if:

(a) the trustee is a corporation within the meaning of the Corporations Act 2001 and its registered office within the meaning of that Act is in the Territory;

(b) in the case of a trustee of a fund who is a natural person, the principal place where the trustee carries on business as a trustee is in the Territory;

(c) in the case of an exempt public sector superannuation scheme, the principal place where the fund is administered is in the Territory; or

(d) where there are 2 or more trustees of the fund and paragraph (a) or (b) applies to one or more but not to all the trustees, the principal place where the fund is administered is in the Territory.

4 Statement of unclaimed superannuation benefits

(1) The trustee of a fund must give to the Treasurer a statement (in a form approved by the Treasurer) of all unclaimed superannuation benefits in the fund as at 30 June 1997, as at 31 December 1997 and as at the end of each subsequent half-year.

(2) The trustee must give the Treasurer the statement:

(a) as at 30 June 1997, on or before 30 April 1998;

(b) in relation to a half-year ending on 31 December, on or before the following 30 April; or

(c) in relation to a half-year ending on 30 June, on or before the following 31 October,

or on or before a later date that the Treasurer approves by notice in writing given to the trustee whether before or after 31 October or 30 April, as the case requires.

(3) If, after the end of a half-year and before the trustee gives the statement to the Treasurer, the trustee pays any unclaimed superannuation benefit to a person who is entitled to it, the statement must contain the particulars about the payment as required by the form approved under subsection (1).

(4) An approval by the Treasurer of a form of statement for the purposes of subsection (1) may require or permit the statement to be given on a specified kind of data processing device in accordance with specified software requirements.

(5) A trustee who fails to comply with a provision of this section is guilty of an offence if the failure is intentional or results from failure on the part of the trustee to take reasonable care to comply with the provision.

Maximum penalty: 17 penalty units.

5 Payment of unclaimed superannuation benefits

The trustee of a fund when giving the statement under section 4 must pay to the Treasurer, for payment into the Central Holding Authority, an amount equal to the aggregate of the unclaimed superannuation benefits specified in the statement less the amount, or the aggregate of the amounts, paid by the trustee and specified in the statement in accordance with section 4(3).

6 Treasurer to refund certain amounts

(1) If:

(a) an unclaimed superannuation benefit has been paid to the Treasurer under this Act; and

(b) the Treasurer is satisfied, on application made by a person in a form approved by the Treasurer, that, if this Act and Part 22 of the Commonwealth Act had not been enacted, that person would have been paid that unclaimed superannuation benefit by the trustee by whom it was paid to the Treasurer,

the Treasurer must pay an amount equal to the amount of that unclaimed superannuation benefit to that person.

(2) If the trustee of a fund, after paying an amount to the Treasurer under this Act, satisfies the Treasurer that the amount paid exceeds the amount that the trustee would have paid to the person concerned, the Treasurer must refund to the trustee the amount of the excess.

(3) The Central Holding Authority is appropriated to the extent necessary for the purposes of this section.

7 Register of unclaimed superannuation benefits

(1) The Treasurer must keep a register of unclaimed superannuation benefits paid to the Treasurer under this Act.

(2) The register may be in the form, and kept in the manner, that the Treasurer determines but must include, in relation to each unclaimed superannuation benefit recorded in the register:

(a) the name of the fund in which the benefit was held; and

(b) the name of the person in respect of whom the benefit was payable.

8 Discharge of liability

A trustee of a fund who pays to the Treasurer an amount required by this Act is discharged from further liability as trustee in respect of the amount.

9 Trustee not in breach of trust

Nothing done by a trustee of a fund in accordance with this Act may be regarded for any purpose as constituting a breach of trust by the trustee.

10 Conflict with governing instrument of public sector scheme

If there is a conflict between a duty imposed on the trustee of an exempt public sector superannuation scheme by this Act and a duty imposed on the trustee by the governing instrument of the scheme (whether the governing instrument is an Act, regulations or any other kind of instrument), the trustee must comply with this Act and in doing so will be taken to have complied with the governing instrument.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = *Gazette*
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

Unclaimed Superannuation Benefits Act 1998 (Act No. 30, 1998)

Assent date	30 April 1998
Commenced	30 April 1998

Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)

Assent date	29 June 2001
Commenced	15 July 2001 (s 2, s 2 *Corporations Act 2001* (Cth Act No. 50, 2001) and Cth *Gaz* S285, 13 July 2001)

Statute Law Revision Act 2007 (Act No. 4, 2007)

Assent date	8 March 2007
Commenced	8 March 2007

Justice Legislation Amendment (Penalties) Act 2010 (Act No. 12, 2010)

Assent date	20 May 2010
Commenced	1 July 2010 (*Gaz* G24, 16 June 2010, p 2)

3 LIST OF AMENDMENTS

s 3	amd No. 17, 2001, s 21
s 4	amd No. 12, 2010, s 3
ss 5 – 6	amd No. 4, 2007, s 7