



NSW Legislative Council Hansard

Parliamentary Contributory Superannuation Amendment (Criminal Charges and Convictions) Bill

Extract from NSW Legislative Council Hansard and Papers Thursday 16 November 2006.

Second Reading

The Hon. JOHN DELLA BOSCA (Minister for Finance, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, and Vice-President of the Executive Council) [6.41 p.m.]: I move:

That this bill be now read a second time.

The Parliamentary Contributory Superannuation Amendment (Criminal Charges and Convictions) Bill 2006 will ensure that members the subject of criminal charges will be treated in exactly the same way in relation to superannuation, regardless of whether they remain in Parliament or cease to be a member prior to being convicted of a serious offence. As the second reading speech is lengthy and it has already been delivered in the other place, I seek leave to incorporate the balance of my remarks in *Hansard*.

Leave granted.

The New South Wales Government considers that this bill will address legitimate community concerns which have arisen in relation to the issue of access to superannuation by former Members of Parliament who cease to be a Member while criminal charges are pending.

The Government has since last week been taking advice on the Government's options to address the issue of superannuation entitlements for Members facing serious criminal charges.

This legislation will ensure that Members who are the subject of charges for an offence carrying a gaol term of five years or more will not have access to their publicly funded superannuation until the conclusion of those proceedings.

This will apply regardless of whether or not the Member remains in Parliament to face those charges.

As the law currently stands, if a Member continues to sit in the Parliament and is found guilty of an offence punishable by five years or more imprisonment, their seat is vacated under section 13A of the Constitution Act.

Section 19(7) of the Parliamentary Contributory Superannuation Act currently provides that a Member whose seat is vacated, loses their entitlement to the taxpayer funded part of their benefits from the Parliamentary superannuation scheme.

All these Members receive is a refund of their own contributions.

One way in which Members can avoid the operation of this provision is by resigning from Parliament before criminal charges are finalised.

There is considerable public disquiet as to whether this is appropriate.

There is a very strong argument that a Member who ceases to be a Member, and who is ultimately convicted of charges which were pending at the time he resigned, should be in no better a position in relation to their superannuation entitlements than a member who remains in Parliament while the charges are dealt with.

The bill provides that where a Member is facing criminal charges at the time when he or she ceases to be a Member, their entitlement to a superannuation benefit will be suspended.

This entitlement will be suspended pending resolution of the criminal charges.

The normal entitlements of the Member will be restored at the completion of any legal proceedings if there is an acquittal or the charges are withdrawn.

If the charges are proven and the former Member is convicted, there will no longer be any entitlement to the publicly funded part of the superannuation benefit.

A convicted former Member will receive a refund of the contributions which have been deducted from their salary.

This bill will address a significant anomaly in the superannuation legislation.

It will ensure that community concern regarding access to publicly funded superannuation entitlements in cases where serious criminal wrong doing is involved are addressed.

It should also be noted that the bill includes amendments which provide that section 4 of the Act does not apply in respect of this bill. section 4 provides that the Parliamentary Remuneration Tribunal must approve amendments to this Act.

Section 4 was originally inserted as a check to ensure that MPs do not consider amendments which might benefit them without first having those amendments independently reviewed by the Tribunal.

While the Government has sought the relevant approval, the Tribunal has indicated that it wishes to have more time to consider the matter.

Of course, these changes are clearly not intended to benefit Members. Given the urgency of this matter, the Government considers it appropriate that the bill proceeds without the need for an approval form the Tribunal.

I commend the bill to the House.