

Parliamentary Superannuation Legislation Amendment Bill 2005

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Parliamentary Contributory Superannuation Act 1971* and the *Parliamentary Remuneration Act 1989* as follows:

- (a) to close the Parliamentary Contributory Superannuation Scheme to new members of Parliament elected at or after the 2007 State general election,
- (b) to provide for new members of Parliament elected at or after that State general election to receive an accumulation style superannuation benefit in line with entitlements of public sector employees under the First State Superannuation Scheme (being no less than the minimum entitlements under Commonwealth superannuation guarantee legislation),
- (c) to enable those members to make additional superannuation contributions by way of salary sacrifice,
- (d) to provide for superannuation contributions for a new member of Parliament to be paid to the First State Superannuation Fund, or paid to another complying superannuation fund, complying approved deposit fund or retirement savings account nominated by the new member,
- (e) to enable continuing members of the Parliamentary Contributory Superannuation Scheme to cease to contribute after the age of 65 years if they have completed 20 years' service,
- (f) to enable former members of Parliament to make an election to convert a deferred pension under the Parliamentary Contributory Superannuation Scheme to a lump sum benefit within 3 months of the pension being payable, rather than within 3 months of ceasing to be a member,
- (g) to enable certain benefits payable to de facto partners or spouses of former members under the Parliamentary Contributory Superannuation Scheme to be reduced to meet superannuation contribution surcharge obligations of the former members,
- (h) to provide that a continuing member of the Parliamentary Contributory Superannuation Scheme seeking re-election who dies on polling day before the polls close is taken to be a member for the purposes of the Scheme,
- (i) to make other consequential amendments and to enact consequential savings and transitional provisions.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the *Parliamentary Contributory Superannuation Act 1971* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Parliamentary Remuneration Act 1989* set out in Schedule 2.

Schedule 1 Amendment of Parliamentary Contributory Superannuation Act 1971

Closure of Parliamentary Contributory Superannuation Scheme

Schedule 1 [1] inserts proposed Part 1A (proposed section 4A) into the Principal Act. Proposed section 4A closes the Parliamentary Contributory Superannuation Scheme to members of Parliament elected at or after the 2007 general election, other than continuing members. A member does not cease to be a continuing member because of a break of 3 months or less as a member of parliament.

Schedule 1 [7] omits a provision that enables benefits to be paid into a

Commonwealth Parliamentary superannuation scheme, as a result of the closure of that scheme.

Other amendments affecting continuing members of the Parliamentary Contributory Superannuation Scheme

Schedule 1 [2] inserts proposed section 18B into the Principal Act. The proposed section enables a member who has reached the age of 65 years, and has received salary for an aggregate period of 20 years or more, to elect to cease to have deductions made from his or her salary. When the person is entitled to be paid the benefit (on ceasing to be a member) it is to be calculated as if the person had ceased to be entitled to receive salary when the election took effect rather than on the day the person ceased to be a member.

Schedule 1 [5] amends section 20 of the Principal Act to make it clear that an election to convert a pension to a lump sum benefit is to be made within 3 months of the benefit becoming payable, rather than within 3 months of a member ceasing to be a member. **Schedule 1 [3] and [4]** make consequential amendments.

Schedule 1 [8] amends section 26D of the Principal Act to include a pension payable to the spouse or de facto partner of a former member, being a pension based on a percentage of the member's salary, in the benefits that may be reduced to meet superannuation contribution surcharge liabilities. **Schedule 1 [6]** makes a consequential amendment.

Schedule 1 [9] inserts proposed section 32C into the Principal Act. The proposed section provides that a member is taken to be a member at the time of his or her death if the person was a member before an election and dies while seeking election before the close of polls on polling day. Currently, such a person is treated as a former member. One consequence of the amendment is that the spouse or de facto partner of any such person may elect to convert a pension entitlement arising out of the death to a lump sum benefit.

Schedule 1 [11] makes it clear that certain provisions applying to the commutation of pensions apply, and have always done so, to pensions previously commuted by members after reaching the age of 65 or 70.

Savings and transitional provisions

Schedule 1 [10] enables savings and transitional regulations to be made as a result of the enactment of the proposed Act.

Schedule 1 [12] inserts proposed clause 10 into Schedule 1 to the Principal Act to validate previous reductions of the pensions to which section 26D is extended by the amendment made by **Schedule 1 [8]**.

Schedule 2 Amendment of Parliamentary Remuneration Act 1989

Schedule 2 [5] inserts proposed Division 2 of Part 3A (proposed sections 14B–14F) into the Principal Act.

Proposed section 14B applies the proposed Division to members other than continuing members of the Parliamentary Contributory Superannuation Fund.

Proposed section 14C contains definitions of words and expressions used in the proposed Division.

Proposed section 14D requires the State of New South Wales to make a superannuation contribution for members of 9% per annum of the salary of the members (or such greater percentage as may be prescribed by the regulations). Salary is to be taken to be the greatest of the maximum contribution base (determined under the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth) or the basic salary and additional salary (if any) of a member or such other salary as may be prescribed by the regulations.

Proposed section 14E requires the superannuation contribution to be paid to the First State Superannuation Fund, or paid to a complying superannuation fund, complying approved deposit fund or retirement savings account nominated by the member

concerned.

Proposed section 14F enables members to make additional superannuation contributions by way of salary sacrifice. The contributions are to be paid to a complying superannuation fund, complying approved deposit fund or retirement savings account nominated by the member concerned.

Schedule 2 [1]–[4] make consequential amendments.

Schedule 2 [6] enables savings and transitional regulations to be made as a result of the enactment of the proposed Act.