



New South Wales

# Parliamentary Contributory Superannuation Legislation Amendment Bill 1998

## Explanatory note

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

### Overview of Bill

The objects of this Bill are:

- (a) to repeal an amendment made by the *Superannuation Legislation Further Amendment Act 1997* to the definition of *salary* for the purposes of the *Parliamentary Contributory Superannuation Act 1971*, with effect from 17 December 1997, and to reinstate the definition in force immediately before that amendment, and
  - (b) to amend the *Parliamentary Contributory Superannuation Act 1971* to prohibit any future amendment of that Act unless the Parliamentary Remuneration Tribunal first issues a certificate approving the amendment, and
  - (c) to amend the *Parliamentary Remuneration Act 1989* to set out the powers of the Tribunal in relation to such approvals.
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## 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. Clauses 3 and 6 and Schedule 1 are backdated to 17 December 1997, which was the date of assent to the *Superannuation Legislation Further Amendment Act 1997*. Those provisions reverse the effect of the amendment made by that Act to the definition of *salary*.

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

**Clause 4** is a formal provision giving effect to the amendment to the *Parliamentary Contributory Superannuation Act 1971* set out in Schedule 2.

**Clause 5** is a formal provision giving effect to the amendments to the *Parliamentary Remuneration Act 1989* set out in Schedule 3.

**Clause 6** repeals Schedule 1.2 [2] of the *Superannuation Legislation Further Amendment Act 1997*. This item amended the definition of *salary* in the *Parliamentary Contributory Superannuation Act 1971*.

**Clause 7** validates the actions and omissions of the Trustees of the Parliamentary Contributory Superannuation Fund in carrying out functions as a result of the amendment to be repealed and in acting in anticipation of the repeal taking place. It also excludes them, and persons acting under their direction, from liability for such actions and omissions.

## Schedules

### **Schedule 1      Amendment of Parliamentary Contributory Superannuation Act 1971**

Schedule 1 omits the provisions inserted in the definition of *salary* in the *Parliamentary Contributory Superannuation Act 1971* by the *Superannuation Legislation Further Amendment Act 1997* and amends that definition so that it is the same as it was before the amendment was made.

## **Schedule 2 Further amendment of Parliamentary Contributory Superannuation Act 1971**

### **Amendments must be approved**

The amendment prohibits the Legislative Assembly or Legislative Council from originating or passing any vote, resolution or Bill for the amendment of the *Parliamentary Contributory Superannuation Act 1971* unless the Parliamentary Remuneration Tribunal has first issued a certificate approving the amendment. The certificate must be issued in the same Session of Parliament. (See proposed section 4.)

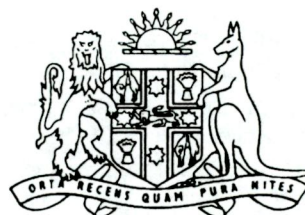
## **Schedule 3 Amendment of Parliamentary Remuneration Act 1989**

### **Parliamentary Remuneration Tribunal's powers**

The amendments empower the Parliamentary Remuneration Tribunal to determine whether a proposed amendment to the *Parliamentary Contributory Superannuation Act 1971* should be approved. The Tribunal is required to take into account the Heads of Government Agreement under which State public sector superannuation schemes are to comply with Commonwealth legislation applicable to other superannuation schemes and is required also to take into account the effects of any proposed amendment on the present and future liabilities of the Parliamentary Contributory Superannuation Fund. The Tribunal may also obtain actuarial advice relating to the costs and effects of any proposed amendment. If it is intended to proceed with a proposed amendment, the certificate of approval for the proposed amendment is to be laid before Parliament and the determination approving the amendment is to be published in the Gazette. The amendments also confer ancillary powers on the Tribunal as well as extending protection from judicial review to decisions as to approval of amendments. (See **Schedule 2 [1]**, **2 [2]** (proposed section 14A) and **2 [3]**)



First print



New South Wales

# Parliamentary Contributory Superannuation Legislation Amendment Bill 1998

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New South Wales

# Parliamentary Contributory Superannuation Legislation Amendment Bill 1998

No. , 1998

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## A Bill for

An Act to repeal an amendment to the definition of *salary* for the purposes of the Parliamentary Contributory Superannuation Scheme made by the *Superannuation Legislation Further Amendment Act 1997*; to amend the *Parliamentary Contributory Superannuation Act 1971* to prohibit the amendment of that Act unless the Parliamentary Remuneration Tribunal approves the amendment; to amend the *Parliamentary Remuneration Act 1989* to empower that Tribunal to approve amendments to the *Parliamentary Contributory Superannuation Act 1971*; to validate certain matters; and for other purposes.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Parliamentary Contributory Superannuation Legislation Amendment Act 1998*.

**2 Commencement** 5

- (1) This Act commences on the date of assent, except as provided by subsection (2).
- (2) Sections 3 and 6 and Schedule 1 are taken to have commenced on 17 December 1997.

**3 Amendment of Parliamentary Contributory Superannuation Act 1971 No 53** 10

The *Parliamentary Contributory Superannuation Act 1971* is amended as set out in Schedule 1.

**4 Further amendment of Parliamentary Contributory Superannuation Act 1971 No 53** 15

The *Parliamentary Contributory Superannuation Act 1971* is further amended as set out in Schedule 2.

**5 Amendment of Parliamentary Remuneration Act 1989 No 160**

The *Parliamentary Remuneration Act 1989* is amended as set out in Schedule 3. 20

**6 Amendment of Superannuation Legislation Further Amendment Act 1997 No 149**

Schedule 1.2 [2] of the *Superannuation Legislation Further Amendment Act 1997* is repealed.

**7 Validation** 25

- (1) Any act, matter or thing that was done or omitted during the interim period, that was invalid apart from this Act, and that would have been valid had sections 3 and 6 and Schedule 1 been in force, is validated.



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- (2) Without limiting subsection (1), any act, matter or thing done or omitted during or after the interim period by the Trustees, or by a person acting in accordance with a direction of the Trustees, in connection with:
- (a) the refusal to accept, or failure to require, additional contributions to the Parliamentary Contributory Superannuation Fund arising from the repealed amendment, or 5
  - (b) the refusal or failure to pay benefits or increased benefits from the Fund to any person arising from the repealed amendment, or 10
  - (c) any associated matter,  
is validated.
- (3) Without limiting subsections (1) and (2), any act, matter or thing done or omitted during or after the interim period by the Trustees or by a person acting in accordance with a direction of the Trustees: 15
- (a) pursuant to or as a consequence of the repealed amendment, or
  - (b) in anticipation of the repeal of the repealed amendment or the enactment of this Act, 20
- does not subject the Trustees as a body corporate, or any individual trustee personally, or any such person personally, to any action, liability, claim or demand.
- (4) The Trustees are authorised and required to repay any money obtained by them, or to recover any money paid by them, pursuant to or as a consequence of the repealed amendment that, if the repealed amendment had not been enacted, would not have been payable to or obtained or paid by the Trustees. 25
- (5) In this section: 30
- interim period*** means the period commencing with 17 December 1997 and ending immediately before the date of assent to this Act.
- repealed amendment*** means the amendment to the *Parliamentary Contributory Superannuation Act 1971* contained in Schedule 1.2 [2] to the *Superannuation Legislation Further Amendment Act 1997*. 35
- Trustees*** means the Trustees of the Parliamentary Contributory Superannuation Fund.
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**Schedule 1      Amendment of Parliamentary  
Contributory Superannuation Act 1971**

(Section 3)

**Section 3 Definitions**

Omit paragraphs (c) and (d) of the definition of *salary* in section 3 (1). 5

Insert instead:

- (c) all remuneration payable to him or her under the *Parliamentary Remuneration Act 1989* by way of basic salary or additional salary, 10

**Schedule 2    Further amendment of Parliamentary  
Contributory Superannuation Act 1971**

(Section 4)

**Section 4**

Insert after section 3:

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**4 Amendments require certificate of approval**

It is not lawful for the Legislative Assembly or the Legislative Council to originate or pass any vote, resolution or Bill for the amendment of this Act unless a certificate approving the amendment made by the vote, resolution or Bill has been first issued by the Parliamentary Remuneration Tribunal, or any successor of the Tribunal, during the Session in which the vote, resolution or Bill is proposed to be passed.

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## **Schedule 3 Amendment of Parliamentary Remuneration Act 1989**

(Section 5)

### **[1] Section 9 Functions of the Tribunal**

Insert after section 9 (b): 5

, and

- (c) to approve proposed amendments to the *Parliamentary Contributory Superannuation Act 1971*.

### **[2] Part 3A** 10

Insert after Part 3:

#### **Part 3A Parliamentary superannuation**

##### **14A Superannuation approvals**

- (1) The Tribunal may, for the purposes of section 4 of the *Parliamentary Contributory Superannuation Act 1971*, determine whether any proposed amendment to that Act is warranted. 15
- (2) In determining whether any amendment is warranted, the Tribunal:
- (a) must have regard to the Heads of Government Agreement, that commenced on 1 July 1996, relating to the exemption of certain State public sector superannuation schemes from the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, including whether the amendment is consistent with that agreement, and 20  
25
- (b) must have regard to the effects of any proposed amendment on the present and future liabilities of the Parliamentary Contributory Superannuation Fund, and 30
- (c) may obtain, and have regard to, actuarial advice relating to the costs and effects of any proposed amendment.

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- (3) If the Tribunal determines that an amendment is warranted, the Tribunal must issue a certificate approving the amendment and forward it to the member of the Legislative Assembly or Legislative Council proposing the amendment. If the member proposes to proceed with the amendment, the member is to cause it to be laid before the House of Parliament in which the member proposes to proceed with the amendment. 5
- (4) The Tribunal must cause a determination that an amendment is warranted to be published in the Gazette if notified by any member of the Legislative Assembly or Legislative Council that the member proposes to proceed with the amendment. 10
- (5) Section 14 applies to the Tribunal in the exercise of its functions under this Part in the same way as it applies to the exercise of its functions in making determinations. 15
- (6) Without affecting the generality of section 14, the Tribunal may, in considering whether to approve an amendment, invite submissions from the Trustees of the Parliamentary Contributory Superannuation Fund. 20

**[3] Section 18 Determinations not to be subject to judicial review**

Insert "(including a determination under section 14A)" after "determination".