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at 25 September 1991

WESTERN AUSTRALIA

PARLIAMENTARY
SUPERANNUATION ACT 1970

ARRANGEMENT

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PARLIAMENTARY SUPERANNUATION ACT 1970

AN ACT to provide for the payment of superannuation pensions and other benefits to persons who have served as Members of Parliament and to their dependants, and for the making of contributions by Members of Parliament in respect of those pensions and benefits; to repeal the *Parliamentary Superannuation Act 1948-1968*; and for incidental and other purposes.

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PART I — PRELIMINARY

Short title

1. This Act may be cited as the *Parliamentary Superannuation Act 1970*¹.

[Section 1 amended by No. 54 of 1980 s.1.]

Commencement

2. (1) Subject to subsection (2), this Act shall come into operation on the date on which it receives the Royal Assent¹.

(2) Part IV of this Act shall be deemed to have come into operation on 1 January 1970¹.

[3. *Repealed by No. 58 of 1986 s. 3.*]

Repeal

4. The Acts set out in the Schedule are repealed.

Interpretation

5. (1) In this Act, unless the contrary intention appears —

“basic salary” —

- (a) in relation to any period when the remuneration of members was fixed under the *Parliamentary Salaries and Allowances Act 1967*² — has the same meaning as in section 4 of that Act; and

- (b) in relation to any period when the remuneration of members is fixed under the *Salaries and Allowances Act 1975* — means the remuneration from time to time specified in any determination made under that Act as the basic salary of Members of Parliament generally;

“**Board**” means the Parliamentary Superannuation Board established by section 6 (1);

“**election**” means any election for the Legislative Council or the Legislative Assembly of Western Australia;

“**Index**” means the table described as the Consumer Price Index Numbers — All Groups, Perth that is published by the Statistician under the authority of the *Census and Statistics Act 1905* (as amended or re-enacted from time to time) of the Commonwealth;

“**member**” means a member of the Legislative Council or the Legislative Assembly of Western Australia;

“**pay day**” means a day on which a fortnightly instalment of pension is payable under this Act;

“**salary**”, in relation to a member —

- (a) in relation to any period when the remuneration of members was fixed under the *Parliamentary Salaries and Allowances Act 1967* ² — means the basic salary of the member together with any salary paid to him of the kind specified in the Third or Fourth Schedule to that Act; and
- (b) in relation to any period when the remuneration of members is fixed under the *Salaries and Allowances Act 1975* — means the basic salary of the member together with any additional remuneration paid to him pursuant to a

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determination made under that Act which is designated in the determination to be salary payable to him as a Minister of the Crown, as an Officer of Parliament or as the Parliamentary Secretary of the Cabinet;

“scheme” means the scheme of superannuation and other benefits provided for by this Act;

“the repealed Act” means the *Parliamentary Superannuation Act 1948-1968*.

(2) For the purposes of this Act a member shall be deemed not to have ceased to be a member by reason only of his retirement by effluxion of time from the Legislative Council or, as the case may be, the expiration by effluxion of time or dissolution of the Legislative Assembly.

(3) A member of the Legislative Assembly who ceases or ceased to be a member thereof by reason of the dissolution of that House or the expiry thereof by effluxion of time shall be deemed, for the purposes of this Act, to cease or to have ceased to be a member on the day fixed for the taking of the poll next following the dissolution or expiry.

(4)³ Without limiting the application of section 19A, a reference in this Act to a widow of a member or former member includes a reference to a person of the opposite sex to the member or former member who, although not legally married to the member or former member at the time of his death —

- (a) had ordinarily lived with him as his spouse, on a permanent and *bona fide* domestic basis, for a continuous period of not less than 3 years immediately before his death; or
- (b) had ordinarily lived with him as his spouse, on a permanent and *bona fide* domestic basis, for a continuous period of less than 3 years immediately

before his death and was, in the opinion of the Board, wholly or substantially dependent on him at the time of his death,

and for the purposes of this Act a relationship of the kind referred to in this subsection is to be regarded as a marriage that took place at the time when that person commenced so living with the member or former member notwithstanding that either that person or the member or former member, or each of them, may during the subsistence of that relationship have been legally married to another person.

[Section 5 amended by No. 94 of 1975 s.3; No. 54 of 1980 s.3; No. 58 of 1986 s.4; No. 31 of 1989 s.4.]

**PART II ⁴ — THE PARLIAMENTARY
SUPERANNUATION BOARD**

[Heading to Part II inserted by No. 31 of 1989 s.5.]

The Board

6. (1) There is established a Board, to be called the Parliamentary Superannuation Board.

(2) The Board is to administer the scheme.

(3) The Board consists of —

(a) the Treasurer, who is the chairperson;

(b) 4 other Board members, of whom 2 are to be appointed by the Legislative Council and 2 by the Legislative Assembly from members of the Council and the Assembly respectively.⁵

(4) Appointments under subsection (3) (b) by a House are to be made —

(a) during the first sitting of each Parliament; and

(b) whenever required to fill a vacancy.

(5) The Treasurer may nominate a member of either House to act as chairperson on his behalf either generally or for a particular period or occasion and a member so nominated has, while so acting, all of the functions of the Treasurer as chairperson.

(6) A Board member —

- (a) may be removed by the House by which he was appointed;
- (b) may resign by notice in writing to the presiding officer of that House;
- (c) ceases to hold office if he ceases to be a member,

and where paragraph (b) or (c) applies and the House concerned is not sitting, the presiding officer of that House may appoint a member of that House to hold the office of Board member until the vacancy is filled.

[Section 6 inserted by No. 31 of 1989 s.5.]

Proceedings

7. (1) The procedure for the calling of meetings of the Board and the conduct of meetings shall, subject to this Act, be as determined by the Board.

(2) A quorum for a meeting is 3 Board members.

(3) A decision supported by a majority of the votes cast at a meeting is the decision of the Board.

(4) The chairperson has a deliberative vote and if necessary a casting vote.

[Section 7 inserted by No. 31 of 1989 s.5.]

Clerical support

8. The Treasurer is to make available to the Board the services of an officer of the public service to assist the Board in the performance of its functions.

[Section 8 inserted by No. 31 of 1989 s.5.]

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Application of *Financial Administration and Audit Act 1985*

9. The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Board and its operations.

[*Section 9 inserted by No. 31 of 1989 s.5.*]

[10. *Repealed by No. 31 of 1989 s.5.*]

PART III — CONTRIBUTIONS OF MEMBERS

[*Heading amended by No. 31 of 1989 s.6.*]

Contributions by members

11.⁵ (1) Subject to subsection (1a), there shall be deducted from each instalment of salary paid to a member after the coming into operation of the *Parliamentary Superannuation Amendment Act 1980*¹ an amount, by way of contributions to the scheme, calculated on such basis as is specified.

(1aa) For the purposes of subsection (1), “specified” means specified in a determination made under the *Salaries and Allowances Act 1975*.

(1a) Where a member has contributed to the scheme for 20 years, the amount to be deducted from each instalment of salary pursuant to subsection (1) shall be reduced by one-half.

(2) All contributions deducted under subsection (1) shall be paid to the Consolidated Revenue Fund.

[*Section 11 amended by No. 94 of 1975 s.4; No. 54 of 1980 s.4; No. 58 of 1986 s.5; No. 31 of 1989 ss.7 and 15.*]

[12. *Repealed by No. 31 of 1989 s.8.*]

PART IV — PENSIONS AND OTHER BENEFITS

Interpretation

13. (1)⁷ In this Part, unless the contrary intention appears —

“**basic pension**” in relation to a member who has contributed to the scheme for not less than 7 years, means the amount calculated at the rate of the specified basic percentage of the basic salary payable to the member immediately before he ceased to be a member, together with a further specified percentage of that basic salary for each completed period of one month, up to the specified maximum number of such periods, in excess of that 7 years for which the member has duly contributed to the scheme; and

“**specified**” means specified in a determination made under the *Salaries and Allowances Act 1975*.

(2) Subject to section 20 (2) a reference in this Part, however expressed, to a period for which a person made contributions to the scheme means —

- (a) any period for which the person made contributions under section 11 (1); and
- (b) any period for which the person made contributions to the Fund —
 - (i) under the repealed Act;
 - (ii) maintained under the *Members of Parliament Fund Act 1941*⁸; or
 - (iii) maintained under this Act before the commencement of the *Acts Amendment (Parliamentary Superannuation) Act 1989*¹,

and includes, where a person has made contributions in respect of 2 or more separated periods of service as a member, every period for which he so contributed, irrespective of any pension, refund of contributions with interest or other benefit which he received upon ceasing to be a member at the termination of any of those periods of service as a member.

(3) A reference in this Part to payment of an amount to or into the scheme is, in respect of a payment made or required to be made after the commencement of the *Acts Amendment (Parliamentary Superannuation) Act 1989*¹, a reference to payment of that amount to the Consolidated Revenue Fund.

[Section 13 amended by No. 94 of 1975 s.5; No. 54 of 1980 s.5; No. 58 of 1986 s.6; No. 31 of 1989 s.9.]

Members' superannuation benefits, etc

14. (1) Subject to this Act, every person who, after the coming into operation of the *Acts Amendment (Parliamentary Superannuation) Act 1986*¹, ceases to be a member and —

- (a) has contributed to the scheme for not less than 12 years; or
- (b) has contributed to the scheme for not less than 7 years but less than 12 years and —
 - (i) has attained the age of 55 years when he so ceases to be a member;
 - (ia) has so contributed for the duration of not less than 3 complete Parliaments;
 - (ii) so ceases to be a member upon his being defeated at an election;

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- (iii) so ceases to be a member on the ground of ill health and satisfies the Board that his ceasing to be a member on that ground is warranted; or
- (iv) so ceases to be a member upon his resigning or declining to seek re-election for reasons which, in either case, the Board considers good and sufficient,

is entitled, on ceasing to be a member, to be paid an annual pension at the rate ascertained in accordance with subsection (3a).

(1aa) Without limiting the other reasons for declining to seek re-election that the Board may consider good and sufficient for the purposes of subsection (1) (b) (iv), a member has, for the purposes of that provision, good and sufficient reasons for declining to seek re-election if he satisfies the Board that —

- (a) he could be reasonably expected to so decline if unable to obtain the endorsement of a political party;
- (b) he has, after making reasonable endeavours to obtain the endorsement of a political party, been unable to obtain such endorsement; and
- (c) his inability to obtain such endorsement does not result from circumstances substantially within his control.

(1a) For the purposes of this Act, where —

- (a) a Member of the Legislative Council resigns in order to seek election to the Legislative Assembly —
 - (i) he shall, whether or not he is elected to the Legislative Assembly, be deemed to have continued to be a Member of the Legislative

Council during the period between the day on which his resignation took effect and the day on which the election for the Legislative Assembly took place if, within 3 months of that lastmentioned day he pays to the scheme a sum equal to the contributions which he would have been required to make had he continued to be a Member of the Legislative Council during that period, and if he is defeated at the election for the Legislative Assembly he shall be entitled to the same pension, if any, to which he would have been entitled if he had ceased to be a Member of the Legislative Council on the day on which the election for the Legislative Assembly was conducted by reason of his being defeated at an election conducted on that day; and

- (ii) if he dies prior to the day on which the election for the Legislative Assembly takes place, he shall be deemed to have continued to be a Member of the Legislative Council until his death, but for the purposes of calculating the rate at which pension, if any, is payable as from the date of his death to his widow, he shall be deemed to have died on the day on which his resignation took effect; and
- (b) a Member of the Legislative Assembly does not seek re-election for that House in order to seek election for the Legislative Council —
- (i) he shall, if he is elected to the Legislative Council, be deemed to have continued to be a Member of the Legislative Assembly during the period commencing on the day on which he ceased to be a Member of the Legislative Assembly and ending on the day of the declaration of the poll on which, by reason of being so elected, he becomes a Member of the Legislative Council if, within 3 months of that

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lastmentioned day, he pays to the scheme a sum equal to the contributions which he would have been required to make if he had continued to be a Member of the Legislative Assembly during that period;

[(ii) *deleted*]

(iii) he shall, if he is defeated at the election for the Legislative Council, be entitled to the same pension, if any, to which he would have been entitled if he had been defeated at an election for the Legislative Assembly conducted on the same day as that on which the election for the Legislative Council took place, irrespective of whether such an election for the Legislative Assembly was actually conducted on that day;

(iv) he shall, if he dies before the election for the Legislative Council takes place, be deemed to have continued to be a Member of the Legislative Assembly until his death, but for the purposes of calculating the rate at which pension, if any, is payable as from the date of his death to his widow, he shall be deemed to have died on the day on which he ceased to be a Member of the Legislative Assembly.

(2) Subject to this Act —

(a) every person, other than a person referred to in paragraph (b), who has been a member and was, immediately prior to the coming into operation of the *Acts Amendment (Parliamentary Superannuation) Act 1986*¹, in receipt of pension under this Act, is entitled to be paid an annual pension at the rate ascertained in accordance with subsection (4); and

- (b) every person who has been a member and was, immediately prior to 1 January 1970, in receipt of pension payable under the repealed Act, is entitled to be paid an annual pension at the rate ascertained in accordance with subsection (5).

(3) Where a person who ceases to be a member is not, under the provisions of subsection (1), entitled to be paid a pension he shall be paid an amount equal to twice the sum of the contributions made by him to the scheme under this Act or the repealed Act together with interest thereon at the rate determined by the Board, less any amount previously refunded to him under this subsection or any corresponding provision of the repealed Act.

(3a)⁹ For the purposes of subsection (1), the rate per annum of pension payable to a person entitled to pension under that subsection is the basic pension or, where the total salary paid to that person while he was making contributions to the scheme was in excess of the total basic salary paid to that person during that time, a higher amount calculated on such basis as is from time to time determined under the *Salaries and Allowances Act 1975*.

(4) For the purposes of subsection (2) (a), the rate per annum of pension payable to a person entitled to pension under that provision is the rate ascertained in accordance with the formula

$$\frac{A \times B}{C}$$

where —

- A is the basic pension of the person;
- B is the total salary paid to that person while he was making contributions to the scheme; and

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C is the total basic salary paid to that person while he was making contributions to the scheme.

(5) For the purposes of subsection (2) (b), the rate per annum of pension payable to a person entitled to pension under that provision is the rate ascertained in accordance with the formula

$$A \times \frac{(B - D)}{C}$$

where —

A is the basic pension of the person;

B is the total salary paid to that person while he was making contributions to the scheme;

C is the total basic salary paid to that person while he was making contributions to the scheme; and

D is one-third of the difference between B and C.

(6) Nothing in this section entitles a member to be paid pension in respect of any portion of his annual pension entitlement which has been converted to a lump sum payment under section 16 (2).

[Section 14 amended by No. 94 of 1975 s.6; No. 54 of 1980 s.6; No. 58 of 1986 s.7; No. 6 of 1988 s.5; No. 31 of 1989 ss.10 and 15.]

Supplementation of pensions

15. (1) Where the basic salary that was paid to a person immediately before he ceased to be a member is less than the basic salary for the time being payable to members generally, the rate per annum of pension payable to that person shall be increased to the rate ascertained in accordance with the formula

$$E \times \frac{(F - H)}{G}$$

where —

- E is the rate of annual pension payable to the person under section 14 reduced to the extent, if any, provided in section 17;
- F is the basic salary for the time being payable to members generally;
- G is the basic salary that was paid to the person immediately before he ceased to be a member; and
- H is one-third of the difference between F and G.

(2) The provisions of this section shall not apply to or in relation to the payment of any pension after 31 December 1975.

[Section 15 amended by No. 94 of 1975 s.7.]

Increases in certain pensions after 1975

15A. (1) The provisions of this section apply to the payment of pensions to former members in receipt of pension under this Act on 1 January 1976.

(2) Notwithstanding anything to the contrary in section 14, the pension payable to a person to whom this section applies —

- (a) shall in respect of any pay day in the year 1976 be paid at the rate at which pension would have been payable to him on the last pay day in the year 1975 if the amendments effected to the interpretation “**basic pension**” in section 13 by section 5 of the *Parliamentary Superannuation Act Amendment Act 1975*¹ had been in operation on and from 1 January

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1970, increased by such percentage as is determined by the Treasurer to be the percentage by which the Index for the quarter ending on 31 December 1975 exceeded the Index for the quarter ending on 30 June 1975; and

- (b) shall thereafter be increased in the same manner as is specified in section 15B (2) and (5).

[Section 15A inserted by No. 94 of 1975 s.8.]

Increases in pensions which first become payable after 1/1/1976

15B. (1) The provisions of this section apply to the payment of pensions to former members who were not in receipt of pension on 1 January 1976.

(2) Subject to this section, every pension payable to a person to whom this section applies shall be increased in the period of 6 months ending on 31 December 1986, and thereafter in each period of 6 months ending on 30 June or 31 December, with effect on and from the first pay day occurring not less than 3 months after the commencement of that period, by such percentage as is determined by the Treasurer to be the percentage by which the Index for the quarter ending at the commencement of that period is greater than the Index for the quarter ending 6 months before the commencement of that period.

(3) A pension shall not be increased under this section in a period referred to in subsection (2) if the pension first becomes payable in that period or less than 3 months before the commencement of that period.

(4) Where a pension first becomes payable not less than 3 months but less than 6 months before the commencement of a period, the increase of the pension under this section in that period shall be by one-half of the amount of the increase that would otherwise apply under subsection (2).

(5) Where, for the purposes of this section, the Treasurer determines that the Index for the quarter ending at the commencement of a period referred to in subsection (2) is less than, or equal to, the Index for the quarter ending 6 months before the commencement of that period —

- (a) no increase in pensions shall be made under this section in that period; and
- (b) where applicable, the percentage by which it is less shall first be taken into account before making a subsequent increase in pensions under this section.

(6) The provisions of this section and of section 15A apply with such modifications as are necessary to pensions payable to the widows of members or former members.

[Section 15B inserted by No. 94 of 1975 s.9; amended by No. 58 of 1986 s.8.]

Commutation of certain pensions

16. (1) Subject to subsections (3) and (4), a person who ceases to be a member after the coming into operation of the *Parliamentary Superannuation Amendment Act 1980*¹ may elect, by notice in writing served on the Board within 3 months of his so ceasing to be a member, to convert to a lump sum payment, determined in accordance with subsection (2), his annual pension entitlement or a portion thereof.

(2) A lump sum payment under subsection (1) shall be —

- (a) in the case of a person who has not attained the specified age when he ceases to be a member or who attained the specified age less than a year before he ceases to be a member — the amount of the annual pension entitlement of the person converted under subsection (1) multiplied by 12 or such other figure as is applicable to the person

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under a determination made under the *Salaries and Allowances Act 1975* for the purposes of this paragraph;

- (b) in the case of a person who attained the specified age at least a year before he ceases to be a member — the amount of the annual pension entitlement of the person converted under subsection (1) multiplied by a factor calculated by deducting from 12 or such other figure as is applicable to the person under a determination made under the *Salaries and Allowances Act 1975* for the purposes of this paragraph half the number by which the age, in complete years, attained by the person when he ceases to be a member exceeds the specified age.

(2a) Until otherwise specified in a determination made under the *Salaries and Allowances Act 1975*, “**the specified age**” for the purposes of subsection (2) is 65 years.

(3) Where a former member ceased to be a member on the grounds of ill health and had contributed to the scheme for less than 12 years when he so ceased to be a member, he is not entitled to make an election under subsection (1) unless —

- (a) he had attained the age of 55 years; or
- (b) he had contributed to the scheme for the duration of not less than 3 complete Parliaments,

when he so ceased to be a member.

(4) Where section 17 applies to a former member, the whole or the appropriate portion, as the case may be, of his annual pension entitlement for the purposes of this section shall be reduced by the amount that his annual pension entitlement is reduced pursuant to that section.

[Section 16 inserted by No. 54 of 1980 s.7; amended by No. 58 of 1986 s.9; No. 103 of 1987 s.4; No. 6 of 1988 s.6; No. 31 of 1989 s.15.]

Reduction of pension in certain cases

17. (1) Where a person who, on ceasing to be a member, converted all or portion of his annual pension entitlement to a lump sum payment under section 16, again becomes a member on a subsequent date, the amount, if any, by which the benefits received by that person under this Part before he again became a member exceed the amount of the benefits he would have received under this Part if he had not so converted all or portion of his pension entitlement shall be calculated.

(2) Notwithstanding anything in this Part, where a person to whom subsection (1) applies again becomes entitled to a pension under section 14, the amount of annual pension payable to him under this Act shall be reduced by 10 per centum of the amount calculated under subsection (1).

[Section 17 inserted by No. 54 of 1980 s.8.]

Pensions payable to certain widows

18. (1) Where the widow of a former member was in receipt of a widow's pension payable under the repealed Act immediately prior to the coming into operation of this Part, she is entitled until her death to be paid an annual pension at the rate determined in accordance with subsection (2) or (3), as the case requires.

(2) For the purposes of subsection (1), the rate of annual pension payable to a widow is five-eighths of the rate of annual pension to which her husband would, but for his death, have been entitled from time to time under the provisions of this Act.

(3) Where, with respect to any period, the rate of annual pension payable to a widow pursuant to subsection (2) is less than the rate of annual pension to which she would have been entitled under the repealed Act, she shall, during that period, be paid pension at that lastmentioned rate.

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(4) The provisions of section 19 relating to the circumstances in which the pension payable to a widow terminates upon re-marriage, may be restored after re-marriage, and may be paid during re-marriage, apply to the payment of pensions to widows referred to in this section.

[Section 18 amended by No. 94 of 1975 s.10.]

Special adjustment of certain widows' pensions

18A. Notwithstanding any other provision of this Act, where the rate at which the pension that would, but for this section, be payable to the widow of a member or former member on the first pension pay day in the month of January 1977 is less than the rate of pension that would have been payable if her husband had died on the day immediately preceding that pension pay day after contributing to the scheme for a period of 16 years as an ordinary member, her pension shall, on and from that pension pay day, be increased to the secondmentioned rate.

[Section 18A inserted by No. 115 of 1976 s.3; amended by No. 31 of 1989 s.15.]

Adjustment of certain widows' pensions

18B. Notwithstanding any other provision of this Act, where immediately before the coming into operation of the *Parliamentary Superannuation Amendment Act 1980*¹ the widow of a former member is receiving or is entitled to be paid an annual pension under this Act, her pension shall, with effect from and including the first pay day in January 1981, be recalculated by applying the fraction of two-thirds in place of and in the same manner as the fraction of five-eighths was applied in the former calculation made in accordance with this Act and her pension shall be increased accordingly.

[Section 18B inserted by No. 54 of 1980 s.9.]

Payment of pensions to widows generally

19. (1) Subject to this section, on the death of a former member who on ceasing to be a member became entitled to a pension under section 14, the widow of the former member is entitled to be paid until her death an annual pension at the rate of —

- (a) two-thirds of the pension that would continue to be or be payable under this Act to her husband if he had not died and his pension entitlement had not been converted, either wholly or in part, to a lump sum payment; or
- (b) two-thirds of the pension that would have continued to be payable under this Act to her husband if he had not died and if he had retired on the day of his death after contributing to the scheme for a period of 16 years as an ordinary member and his pension entitlement had not been converted, either wholly or in part, to a lump sum payment,

whichever is the greater rate.

(1a) In the case of a widow of a former member who ceased to be a member before the coming into operation of the *Parliamentary Superannuation Amendment Act 1980*¹, the pension entitlement provided for in subsection (1) (b) shall be calculated with reference to section 13 as it was prior to the coming into operation of the *Parliamentary Superannuation Amendment Act 1980*¹.

(1b) Where, after the coming into operation of the *Acts Amendment (Parliamentary Superannuation) Act 1986*¹, a former member —

- (a) converted all of his annual pension entitlement to a lump sum payment under section 16, the widow of the former member is not entitled to an annual pension under subsection (1);

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- (b) converted a portion of his annual pension entitlement to a lump sum payment under section 16, the rate of annual pension to which the widow of the former member is entitled under subsection (1) shall be reduced by an amount that bears to that rate the same ratio as the portion so converted by the former member bears to his annual pension entitlement before such conversion.

(2) Subject to this section, on the death of a member who has contributed to the scheme for not less than 16 years, the widow of the member is entitled to be paid, until her death, an annual pension at the rate of two-thirds of the pension that would from time to time be payable under this Act to her husband if he had not died but had ceased to be member on the date of his death and thereby become entitled to a pension under section 14.

(3) Subject to this section, on the death of a member who has contributed to the scheme for less than 16 years, the widow of the member is entitled to be paid until her death an annual pension at the rate of —

- (a) two-thirds of the pension that would from time to time be payable under this Act to her husband if he had not died but had retired on the same day as that on which he died and thereby become entitled to a pension under section 14; or
- (b) two-thirds of the pension that would from time to time be payable under this Act to her husband if he had not died but had retired on the same day as that on which he died after contributing to the scheme for a period of 16 years as an ordinary member,

whichever is the greater rate.

(4) The pension, if any, payable under this section to —

- (a) a widow referred to in subsection (1) or (1a) if her marriage to the former member took place before the former member finally ceased to be a member; or
- (b) a widow referred to in subsection (2) or (3),

shall cease to be payable if she re-marries prior to attaining the age of 55 years, but —

- (c) the pension shall again become payable during any period after such re-marriage during which the widow is not a party to a subsisting marriage;
- (d) during any period of re-marriage the pension or any part thereof as is determined by the Board may be paid if the widow satisfies the Board that the loss of pension causes severe hardship; and
- (e) shall, in any event, again become payable when she attains the age of 55 years.

(5) A pension is not payable under this section to a widow referred to in subsection (1) or (1a) if her marriage to the former member took place after the former member finally ceased to be a member, except —

- (a) if the widow is aged 55 years or more at the date of the former member's death; or
- (b) as from the date on which the widow attains the age of 55 years if she was less than that age at the date of the former member's death, but no pension is payable under this paragraph if the widow has re-married prior to attaining that age,

and any pension which becomes payable to a widow pursuant to this subsection shall cease to be payable upon her re-marriage.

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(6) Where, as a result of section 5 (4), more than one person would be entitled under this section to be paid a pension as the widow of a member or former member, the pension, if any, that each of those persons is entitled to be paid under this section shall be such proportion, if any, of the pension that would have been payable under this section had only one person been so entitled, as the Board determines, having regard to the respective needs of those persons and such other matters as the Board considers relevant.

[Section 19 amended by No. 94 of 1975 s.11; No. 115 of 1976 s.4; No. 54 of 1980 s.10; No. 58 of 1986 s.10; No. 31 of 1989 ss.11 and 15.]

Widowers' pensions, etc

19A. Any reference in this Act to a widow of a member or former member shall, by force of this section, be construed as including and extending to a widower of a member or former member.

[Section 19A inserted by No. 115 of 1976 s.5.]

Commutation of certain widows' pensions

19B. (1) A widow of a member who becomes entitled to be paid an annual pension pursuant to section 19 (2) or (3), may elect, by notice in writing served on the Board within 6 months of so becoming entitled, to convert to a lump sum payment determined in accordance with subsection (2) not more than 50 per centum of her annual pension entitlement.

(2) A lump sum payment under subsection (1) shall be —

- (a) in the case of a widow who has not attained the specified age when she becomes entitled to be paid an annual pension or who attained the specified age less than a year before she became so entitled

— the amount of the annual pension entitlement of the widow converted under subsection (1) multiplied by 10;

- (b) in the case of a widow who attained the specified age at least a year before she became entitled to be paid an annual pension — the amount of the annual pension entitlement of the widow converted under subsection (1) multiplied by a factor calculated by deducting from 10 half the number by which the age, in complete years, attained by the widow when she becomes entitled to be paid an annual pension exceeds the specified age.

(3) In subsection (2), “the specified age” is the age that is the specified age for the purposes of section 16 (2).

[Section 19B inserted by No. 54 of 1980 s.11; amended by No. 58 of 1986 s.11; No. 31 of 1989 s.15.]

Repayments to Fund of amounts previously paid to contributor

20. (1) Where a payment has been made to a person under section 14 (3), or any corresponding provision of the repealed Act, and that person again becomes a member on a subsequent date, he may —

- (a) within 3 months of his again so becoming a member, pay into the scheme a sum equal to the payment so made to him; or
- (b) after the expiration of the period referred to in paragraph (a), but while he continues to be a member, pay into the scheme a sum equal to the total of the payment so made to him together with interest on the amount of that payment at the rate determined by the Board.

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(2) Notwithstanding the provisions of section 13 (2), where a person to whom subsection (1) applies fails to pay a sum into the scheme in accordance with that subsection the period for which that person contributed to the scheme and in respect of which a payment under section 14 (3) was made shall not be regarded, for the purposes of this Part, as a period for which that person contributed to the scheme.

[Section 20 inserted by No. 54 of 1980 s.12; amended by No. 31 of 1989 s.15.]

Termination of pension if recipient becomes member of Parliament

21. If a former member who is receiving or is entitled to receive a pension under this Part again becomes a member, his right to that pension shall cease.

Reduction of pensions in certain cases

22. (1) Subject to section 21 and to subsection (2), but notwithstanding any other provision of this Act, where a former member who is receiving or is entitled to receive a pension under this Part —

- (a) becomes a member of the Parliament of the Commonwealth or of any other State; or
- (b) holds within the State or elsewhere an office of profit under the Crown, whether in right of the State or otherwise,

the pension payable to him from time to time under this Part shall be reduced by the amount, if any, by which the remuneration he receives as such a member of Parliament or from the office of profit, as the case may be, together with two-thirds of that pension exceeds the basic salary for the time being payable to a member.

(2) Where, but for this subsection, a pension payable to a former member would be reduced, pursuant to subsection (1), by more than two-thirds, that pension shall be reduced by two-thirds only.

Childrens' allowances

23. (1) Subject to this section, on the death of a member or on the death of a former member who at the time of his death was in receipt of pension under this Act, there is payable to any child of the member or former member for so long as the child —

- (a) is less than 16 years of age; or
- (b) is more than 16 but less than 25 years of age and is undergoing a full-time course of education at a school, college, institute or university,

an annual allowance —

- (c) while the deceased member or former member is survived by a widow — of 3 per centum of the basic salary for the time being payable to a member;
- (d) while the deceased member or former member is not survived by a widow — of 6 per centum of the basic salary for the time being payable to a member.

(2) Subsection (1) does not apply in respect of a child of a former member who, after the coming into operation of the *Acts Amendment (Parliamentary Superannuation) Act 1986*¹, converted all of his annual pension entitlement to a lump sum payment under section 16.

(3) Payment of allowance under this section in respect of any child shall be made on behalf of the child to such person or

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persons as the Treasurer determines, and the Treasurer is under no obligation or duty to inquire into or see to the proper application of any payments so made.

[Section 23 amended by No. 94 of 1975 s.12; No. 58 of 1986 s.12.]

Widows and children not entitled to more than one pension

23A. Notwithstanding any other provision of this Act, where but for this section a widow would be entitled to receive more than one widow's pension or a child would be entitled to receive more than one children's allowance during any particular period, only the greater or greatest of those pensions or allowances, as the case may be, shall be payable.

[Section 23A inserted by No. 94 of 1975 s.13.]

Minimum benefit payable

24. Where the amount of the benefit paid or payable under this Act in respect of any member or former member is less than the amount paid into the scheme together with interest thereon at the rate determined by the Board, there shall be paid to such person or persons as the Board directs the difference between the 2 amounts.

[Section 24 inserted by No. 54 of 1980 s.13; amended by No. 31 of 1989 ss.12 and 15.]

PART V — MISCELLANEOUS

Pensions payable fortnightly, etc

25. (1) Every pension under this Act is payable in fortnightly instalments equal to one twenty-sixth of the annual rate of the pension, and is apportionable in point of time.

(2) Where, in calculating the annual pension payable to a person under this Act, the result so obtained includes a fraction of a dollar, that pension shall be increased to the next whole dollar.

(3) Every fortnightly instalment of pension or allowance under this Act which includes a fraction of a cent shall be increased to the next whole cent.

Payments to be made from Consolidated Revenue Fund

26. There shall be paid out of the Consolidated Revenue Fund —

- (a) all pensions, benefits and refunds of contributions payable under this Act; and
- (b) the costs of the administration of this Act,

and the Consolidated Revenue Fund is hereby appropriated accordingly.

[Section 26 inserted by No. 31 of 1989 s.13.]

Actuarial investigation

27. (1) An actuary shall —

- (a) assess the actual and contingent liabilities of the Consolidated Revenue Fund under section 26 as at

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30 June 1990 and as at every 3rd anniversary of that date; and

- (b) report to the Treasurer within 6 months after the assessment date, or within such longer period as the Treasurer may allow.

(2) In subsection (1) “**actuary**” in respect of an assessment required to be made under that subsection means —

- (a) a Fellow of the Institute of Actuaries of Australia; or
- (b) a person of whose actuarial knowledge and experience the Treasurer approves,

who is appointed by the Treasurer to make that assessment.

[Section 27 inserted by No. 31 of 1989 s.13.]

[28. Repealed by No. 31 of 1989 s.13.]

Special provisions concerning pension payments made during period commencing 1/1/70

29. (1) Any payment of pension made under the repealed Act to a former member or widow of a former member with respect to the period commencing on 1 January 1970 and ending on the date on which this Act receives the Royal Assent shall, for the purposes of this Act, be regarded as having been made in part payment of the pension liable to be paid to that former member or widow under Part IV of this Act with respect to that period.

(2) As soon as practicable after the date on which this Act receives the Royal Assent there shall be paid to a former member or widow referred to in subsection (1) the amount, if any, by which the amount of pension to which the former member or widow is entitled under Part IV of this Act with respect to the period referred to in that subsection exceeds the amount of

pension actually paid under the repealed Act to that former member or widow with respect to that period, and thereupon that former member or widow is not entitled to any further payment under this Act with respect to that period.

Pensions, etc, not assignable, etc

30. Subject to any provision of this Act whereby it is expressly provided that an amount, sum or benefit is payable to the personal representative of a member or his widow, the right or interest of any member or former member or of the widow or child of any member or former member, to or in a payment, benefit or pension under this Act shall not be in any way assigned, charged or passed by operation of law to any person other than the member or former member, as the case may be, or his widow or children, and the pensions, benefits and payments payable under this Act shall be personal to the member or former member as the case may be and to his widow and children and shall not inure for the benefit of their respective estates.

[Section 30 amended by No. 31 of 1989 s.14.]

Regulations

31. The Governor may make regulations not inconsistent with this Act prescribing any matter or thing necessary or convenient to be prescribed for the purposes of carrying this Act into effect.

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SCHEDULE

TITLE OF ACT

Parliamentary Superannuation Act 1948.

Parliamentary Superannuation Act Amendment Act 1950.

Parliamentary Superannuation Act Amendment Act 1951.

Parliamentary Superannuation Act Amendment Act 1953.

Parliamentary Superannuation Act Amendment Act 1954.

Parliamentary Superannuation Act Amendment Act 1955.

Parliamentary Superannuation Act Amendment Act 1957.

Parliamentary Superannuation Act Amendment Act 1958.

Parliamentary Superannuation Act Amendment Act 1960.

Parliamentary Superannuation Act Amendment Act 1964.

Parliamentary Superannuation Act Amendment Act 1968.



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NOTES

¹ This reprint is a compilation as at 25 September 1991 of the *Parliamentary Superannuation Act 1970* and includes all amendments effected by the other Acts referred to in the following Table.

Table of Acts

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Parliamentary Superannuation Act 1970</i>	36 of 1970	27 May 1970	27 May 1970	
<i>Parliamentary Superannuation Act Amendment Act 1971</i>	22 of 1971	1 December 1971	Deemed to have operated from 30 December 1970 (see s.2)	
<i>Parliamentary Superannuation Act Amendment Act 1975</i>	94 of 1975	20 November 1975	Sections 4 and 5: 1 January 1976 (see s.2 (2)); Balance: 20 November 1975	
<i>Parliamentary Superannuation Act Amendment Act 1976</i>	115 of 1976	1 December 1976	1 January 1977 (see s.2)	
<i>Parliamentary Superannuation Act Amendment Act 1980</i>	54 of 1980	19 November 1980	Section 6 deemed to operate from 22 February 1980 (see s.2 (2)); Balance: 19 November 1980	

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Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Financial Administration and Audit) Act 1985, section 3</i>	98 of 1985	4 December 1985	1 July 1986 (see <i>Gazette</i> 30 June 1986 p.2255)	
<i>Acts Amendment (Parliamentary Superannuation) Act 1986</i>	58 of 1986	26 November 1986	24 December 1986	Transitional ^{3,5,7,9}
<i>Acts Amendment (Parliamentary Superannuation) Act 1987</i>	103 of 1987	16 December 1987	16 December 1987	
<i>Acts Amendment (Parliamentary Superannuation) and Transitional Arrangements Act 1988</i>	6 of 1988	30 June 1988	Ss. 5 and 6 (b) and Part 4: 22 May 1989. (see section 2(2)); Balance: 30 June 1988.	Amended by No. 31 of 1989. Transitional ¹⁰
<i>Acts Amendment (Parliamentary Superannuation) Act 1989, Part 2</i>	31 of 1989	15 December 1989	15 December 1989	Transitional ^{4,5}

² Repealed by Act No. 27 of 1975 s. 13.

³ Section 4 (2) of Act No. 58 of 1986 reads as follows —

“ (2) The amendment effected by subsection (1) applies only in relation to a member or former member who dies after the coming into operation of this section. ”

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⁴ Section 16 of Act No. 31 of 1989 reads as follows —

Transitional provisions relating to the repeal of Part II

“ 16. (1) In this section —

“**Board**” means the Parliamentary Superannuation Board established by section 6 (1) of the principal Act;

“**commencement**” means the commencement of this Act;

“**Trustees**” means the Trustees of the Parliamentary Superannuation Fund established by section 10 of the principal Act as in force before the commencement.

(2) On the commencement —

(a) all rights, property and assets that were, immediately before the commencement, vested in, under the control of, or standing to the credit of the Trustees are, by force of this subsection, vested in the State and the value of the same shall be credited to the Consolidated Revenue Fund;

(b) the State becomes, by force of this subsection, liable to pay, bear or discharge all the debts, liabilities and obligations of the Trustees that existed immediately before the commencement; and

(c) the Board shall take delivery of all books, documents, and records (however compiled, recorded or stored) relating to the operations of the Trustees.

(3) The Consolidated Revenue Fund is hereby appropriated to the extent required to give effect to subsection (2) (b).

(4) Any agreement or instrument subsisting immediately before the commencement to which the Trustees were a party, has effect after the commencement as if —

(a) the State were substituted for the Trustees as a party to the agreement or instrument; and

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- (b) any reference in the agreement or instrument to the Trustees were (unless the context otherwise requires) a reference to the State.

(5) Where anything has been lawfully commenced by or under the authority of the Trustees before the commencement that thing may be carried on and completed by or under the authority of the Board.

(6) The Trustees shall report as required by section 66 of the *Financial Administration and Audit Act 1985* for the period from the preceding 1 July to the commencement and for that purpose —

- (a) the Trustees shall continue in office; and
- (b) Division 14 of Part II of that Act shall apply as if that period were a full financial year.

(7) For the purpose of Division 14 of Part II of the *Financial Administration and Audit Act 1985*, the period from the commencement to the succeeding 30 June is deemed to be a full financial year of the Board.

(8) References to the Trustees in an enactment as in force immediately before the commencement shall, unless because of the context it would be inappropriate so to do, be read and construed as references to the State.

(9) The Treasurer is authorized to act on behalf of the State in the performance of any function that is necessary or expedient to be performed to give effect to the purposes of this section. ”.

⁵ Section 5 (2) of Act No. 31 of 1989 reads as follows —

“ (2) The Trustees holding office under Part II of the principal Act immediately before the commencement of subsection (1) are deemed to have been appointed under section 6 (3) (b) inserted in the principal Act by that subsection. ”.

⁶ Section 5 (2) of Act No. 58 of 1986 reads as follows —

“ (2) Until the first determination is made under the *Salaries and Allowances Act 1975* for the purposes of section 11 (1) of the principal Act, that provision as in force before the coming into operation of this section shall continue to apply. ”.

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⁷ Section 6 (2) of Act No. 58 of 1986 reads as follows —

“ (2) Until the first determination is made under the *Salaries and Allowances Act 1975* for the purposes of section 13 (1) of the principal Act, that section as in force before the coming into operation of this section shall continue to apply. ”.

⁸ Repealed by Act No. 60 of 1948 s. 2.

⁹ Section 7 (2) of Act No. 58 of 1986 reads as follows —

“ (2) Until the first determination under the *Salaries and Allowances Act 1975* of the basis to be used for calculating the higher rate of pension to which a person may be entitled under section 14 (3a) of the principal Act, the rate of pension payable to a person who is entitled to pension at a higher rate than the basic pension shall be ascertained in accordance with section 14 (4) of the principal Act. ”.

¹⁰ Part 4 of Act No. 6 of 1988 as amended by Act No. 31 of 1989 s. 17 reads as follows —

“ PART 4 — TRANSITIONAL ARRANGEMENTS

Interpretation

7. In this Part —

“**actual contributory period**”, in relation to a person, means the period for which the person has, within the meaning of section 13 (2) of the principal Act, made contributions to the scheme;

“**contributions to the scheme**” means contributions made to the scheme during any period mentioned in section 13 (2) of the principal Act;

“**Electoral Reform Act**” means the *Acts Amendment (Electoral Reform) Act 1987*;

“**member**” means a member of the Legislative Council;

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“enhanced contributory period” in relation to a person, means the sum of —

- (a) the actual contributory period; and
- (b) the period from the end of the actual contributory period to the close of 21 May 1992;

“scheme” has the meaning assigned to it by section 5 of the principal Act;

“the principal Act” means the *Parliamentary Superannuation Act 1970*;

“transitioned person” means a person who —

- (a) by reason of the Electoral Reform Act, vacates his seat by effluxion of time at the close of 21 May 1989 and thereupon ceases, for the purposes of the principal Act, to be a member;
- (b) was elected to fill the seat referred to in paragraph (a) at an election conducted before the Electoral Reform Act received the Royal Assent; and
- (c) would not have vacated his seat by effluxion of time until the close of 21 May 1992 if the Electoral Reform Act had not been enacted.

Benefits for transitioned persons

8. A transitioned person is, upon ceasing to be a member, deemed for the purposes of the principal Act —

- (a) to have contributed to the scheme for a period equal to the enhanced contributory period; and
- (b) to have ceased to be a member upon his being defeated at an election.

Transitioned persons having no pension entitlement

9. (1) For the purpose of applying section 14 (3) of the principal Act, a transitioned person is, in addition to the contributions to the scheme made by him, deemed to have made contributions to the

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scheme equal to the amount prescribed in subsection (2) of this section and those additional contributions are deemed for the purposes of the calculation of interest under section 14 (3) of the principal Act to have been made immediately before he ceased to be a member.

(2) The amount of the additional contributions that a transitioned person is deemed by subsection (1) to have made to the scheme is the total amount that would have been deducted from his salary, by way of contributions to the scheme, for the period from the end of the actual contributory period to the close of 21 May 1992 if —

- (a) he had continued to be a member until the close of 21 May 1992;
- (b) his salary during that period had been paid at the rate of the basic salary applicable immediately before the close of 21 May 1989; and
- (c) the basis for calculating deductions during that period had been that which was applicable under section 11 of the principal Act immediately before the close of 21 May 1989.

Transitioned persons who held higher office

10. Where by reason of section 14 (3a) of the principal Act a transitioned person is entitled to a pension at the rate of a higher amount than the basic pension, that higher amount shall be calculated by —

- (a) first, calculating the rate of pension that would be payable under that provision having regard only to the actual contributory period; and
- (b) then adding to the amount calculated under paragraph (a) an amount equal to the further percentage, if any, of the basic salary that would have been included in determining his basic pension if regard had been had to the period from the end of the actual contributory period to the close of 21 May 1992,

and, the operation of section 14 (3a) of the principal Act is modified accordingly. ”.

