



Western Australia

# **Parliamentary Superannuation Act 1970**

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## Parliamentary Superannuation Act 1970

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**Defined Terms**

Western Australia

## **Parliamentary Superannuation Act 1970**

**An Act relating to superannuation for members of Parliament and for related purposes.**

*[Long title inserted by No. 37 of 2000 s. 4.]*

## **Part I — Preliminary**

### **1. Short title**

This Act may be cited as the *Parliamentary Superannuation Act 1970*<sup>1</sup>.

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

### **2. Commencement**

(1) Subject to subsection (2), this Act shall come into operation on the date on which it receives the Royal Assent<sup>1</sup>.

(2) Part IV shall be deemed to have come into operation on 1 January 1970.

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

### **4. Repeal**

The Acts set out in the Schedule are repealed.

### **5. Terms used in this Act**

(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*<sup>2</sup> — 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);

***closing day*** means the day on which the *Parliamentary Superannuation Legislation Amendment Act 2000* comes into operation;

***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*<sup>2</sup> — 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 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 other than section 29;

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***spouse or de facto partner***, in relation to a member or former member, means —

- (a) the widow or widower of the member or former member; or
- (b) a person who, at the time of the member's or former member's death, was a de facto partner of the member;

***the repealed Act*** means the *Parliamentary Superannuation Act 1948*;

***Tribunal*** means the Salaries and Allowances Tribunal established by section 5 of the *Salaries and Allowances Act 1975*.

- (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) *deleted*]
- (5) For the purposes of this Act a de facto relationship is to be regarded as a marriage that took place at the time when that person commenced to be the de facto partner of 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 or in another de facto relationship.



- (6) If under section 11 contributions have been made to the scheme in respect of a member then for the purposes of this Act the member is deemed to have made the contributions to the scheme.

*[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; No. 37 of 2000 s. 5; No. 3 of 2002 s. 90.]*

## **Part II — The Parliamentary Superannuation Board**

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

### **6. The Board**

- (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 Minister, 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.
- (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 Minister 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 Minister 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; amended by No. 28 of 2006 s. 430.]*

**7. Proceedings**

- (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.]*

**8. Administrative assistance for the Board**

- (1) The Board may appoint and employ persons to assist it in administering the scheme.
- (2) The Board may engage under contract for services any professional, technical or other assistance that the Board considers necessary to assist it in administering the scheme.

*[Section 8 inserted by No. 37 of 2000 s. 6.]*

## **Part IIA — Scheme participants**

*[Heading inserted by No. 37 of 2000 s. 7.]*

### **9. Scheme closed to members elected after closing day**

This Act, other than section 29, and the scheme do not apply to or in relation to a person who becomes a member on or after closing day unless immediately before closing day the person was a member.

*[Section 9 inserted by No. 37 of 2000 s. 7.]*

### **10. Certain participants may withdraw from scheme**

(1) In this section —

*eligible person* means a person —

- (a) who was elected as a member for the first time at the election held on 14 December 1996; or
- (b) who was elected as a member after that date and before closing day;

*set period* means the period beginning on closing day and ending on a day determined by the Tribunal and notified to eligible persons at least one month prior to that day.

(2) An eligible person may at any time in the set period elect to cease participating in the scheme by notice in writing served on the Board.

(3) As soon as practicable after closing day the Tribunal shall inquire into and determine —

- (a) a formula for calculating the benefits payable to or in respect of a person who has made an election under subsection (2) (*termination benefits*);
- (b) when and in what circumstances termination benefits shall be paid;
- (c) to whom termination benefits may be paid;
- (d) the portability of termination benefits; and

- (e) any other matter relevant to the calculation or payment of termination benefits that the Tribunal thinks fit.
- (4) A person who makes an election under subsection (2) shall not be entitled to personally receive the termination benefits while the person is a member.
- (5) The Tribunal may from time to time determine the rate of interest to be paid where termination benefits are not paid immediately on a person making an election under subsection (2).
- (6) Termination benefits shall be paid in accordance with the Tribunal's determination under subsection (3).
- (7) This Act, other than section 29, and the scheme do not apply to or in relation to a person who makes an election under subsection (2).

*[Section 10 inserted by No. 37 of 2000 s. 7.]*

### **Part III — Contributions**

*[Heading inserted by No. 37 of 2000 s. 8(1).]*

#### **11. Contributions in respect of members**

- (1) While a person is a member, contributions shall be made to the scheme in respect of the person of an amount calculated on such basis as is determined from time to time by the Tribunal.
- (2) If the contributions in respect of a member are not paid by the State as part of the member's remuneration they are to be deducted from the member's salary.
- (3) The contributions in respect of a member shall be credited to the Consolidated Account.

*[Section 11 inserted by No. 37 of 2000 s. 8(1)<sup>3</sup>; amended by No. 77 of 2006 s. 4.]*

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

## Part IV — Pensions and other benefits

### 13. Terms used in this Part

- (1) 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*<sup>4</sup>; or
    - (iii) maintained under this Act before the commencement of the *Acts Amendment (Parliamentary Superannuation) Act 1989*<sup>1</sup>,

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.

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- (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*<sup>1</sup>, a reference to payment of that amount to the Consolidated Account.

*[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; No. 6 of 1993 s. 11; No. 77 of 2006 s. 4.]*

**14. Members' superannuation benefits etc.**

- (1) Subject to this Act, every person who, after the coming into operation of the *Acts Amendment (Parliamentary Superannuation) Act 1986*<sup>1</sup>, 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;
    - (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 spouse or de facto partner, 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 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 spouse or de facto partner, 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*<sup>1</sup>, 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 Tribunal, less any amount previously refunded to him under this subsection or any corresponding provision of the repealed Act.

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(3a) 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
- 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 s. 10 and 15; No. 37 of 2000 s. 9; No. 3 of 2002 s. 91(1).]*

*[15, 15A. Deleted by No. 37 of 2000 s. 10.]*

**15B. Increases in pensions which first become payable after 1/1/1976**

*[(1) deleted]*

- (2) Subject to this section, every pension payable to a person shall be increased 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 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 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

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- (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 apply with such modifications as are necessary to pensions payable to the spouses or de facto partners of members or former members.

*[Section 15B inserted by No. 94 of 1975 s. 9; amended by No. 58 of 1986 s. 8; No. 37 of 2000 s. 11; No. 3 of 2002 s. 91(2).]*

**16. Commutation of certain pensions**

- (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*<sup>1</sup> may elect, by notice in writing served on the Board within 3 months of his so ceasing to be a member or such longer period as the Tribunal determines, 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 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; No. 37 of 2000 s. 12.]*

## **17. Reduction of pension in certain cases**

- (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.

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- (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% of the amount calculated under subsection (1).

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

**18. Pensions payable to certain spouses or de facto partners**

- (1) Where the spouse or de facto partner 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 spouse or de facto partner is five-eighths of the rate of annual pension to which the former member 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 spouse or de facto partner 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.
- (4) The provisions of section 19 relating to the circumstances in which the pension payable to a spouse or de facto partner terminates upon re-marriage, may be restored after re-marriage, and may be paid during re-marriage, apply to the payment of pensions to spouses or de facto partners referred to in this section.

*[Section 18 amended by No. 94 of 1975 s. 10; No. 3 of 2002 s. 91(1), (2) and 92.]*



**18A. Special adjustment of certain spouses' or de facto partners' pensions**

Notwithstanding any other provision of this Act, where the rate at which the pension that would, but for this section, be payable to the spouse or de facto partner 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 the member or former member 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; No. 3 of 2002 s. 91(1) and 93.]*

**18B. Adjustment of certain widows' pensions**

Notwithstanding any other provision of this Act, where immediately before the coming into operation of the *Parliamentary Superannuation Amendment Act 1980*<sup>1</sup> 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.]*

**19. Payment of pensions to spouses or de facto partners generally**

- (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 spouse or de facto partner of the former member

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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 the former member 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 the former member 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 spouse or de facto partner of a former member who ceased to be a member before the coming into operation of the *Parliamentary Superannuation Amendment Act 1980*<sup>1</sup>, 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*<sup>1</sup>.
- (1b) Where, after the coming into operation of the *Acts Amendment (Parliamentary Superannuation) Act 1986*<sup>1</sup>, a former member —
  - (a) converted all of his annual pension entitlement to a lump sum payment under section 16, the spouse or de facto partner of the former member is not entitled to an annual pension under subsection (1);
  - (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 spouse or de facto partner 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 spouse or de facto partner 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 the member 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 spouse or de facto partner 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 the member 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 the member 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 spouse or de facto partner 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

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- (b) a spouse or de facto partner 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 spouse or de facto partner 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 spouse or de facto partner 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 spouse or de facto partner 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 spouse or de facto partner is aged 55 years or more at the date of the former member's death; or
  - (b) as from the date on which the spouse or de facto partner 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 spouse or de facto partner has re-married prior to attaining that age,

and any pension which becomes payable to a spouse or de facto partner pursuant to this subsection shall cease to be payable upon her re-marriage.

- (6) Where more than one person would be entitled under this section to be paid a pension as the spouse or de facto partner 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 s. 11 and 15; No. 3 of 2002 s. 91(1) and 94.]*

*[19A. Deleted by No. 3 of 2002 s. 95.]*

**19B. Commutation of certain spouses' or de facto partners' pensions**

- (1) A spouse or de facto partner 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% of her annual pension entitlement.
- (2) A lump sum payment under subsection (1) shall be —
  - (a) in the case of a spouse or de facto partner 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 spouse or de facto partner converted under subsection (1) multiplied by 10;
  - (b) in the case of a spouse or de facto partner 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 spouse or de facto partner 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 spouse or de facto partner when she becomes entitled to be paid an annual pension exceeds the specified age.

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- (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; No. 3 of 2002 s. 91(1).]*

**20. Repayments to Fund of amounts previously paid to contributor**

- (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 Tribunal.

- (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; No. 37 of 2000 s. 13.]*

**21. Termination of pension if recipient becomes member of Parliament**

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.

**22. Reduction of pensions in certain cases**

- (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.

**23. Childrens' allowances**

- (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

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- (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 spouse or de facto partner — of 3% 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 spouse or de facto partner — of 6% 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*<sup>1</sup>, 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 persons as the Board determines, and the Board 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; No. 37 of 2000 s. 14; No. 3 of 2002 s. 91(1).]*

**23A. Spouse or de facto partner and children not entitled to more than one pension**

Notwithstanding any other provision of this Act, where but for this section a spouse or de facto partner would be entitled to receive more than one 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; amended by No. 3 of 2002 s. 91(1) and 96.]*



**24.      Minimum benefits**

The Tribunal shall from time to time inquire into and determine a basis for calculating the amount of the minimum benefit payable under the scheme having regard to the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

*[Section 24 inserted by No. 37 of 2000 s. 15.]*

## **Part V — Miscellaneous**

### **25. Pensions payable fortnightly etc.**

- (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.

### **26. Payments to be made from Consolidated Account**

There shall be charged to the Consolidated Account —

- (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 Account is hereby appropriated accordingly.

*[Section 26 inserted by No. 31 of 1989 s. 13; amended by No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 77 of 2006 s. 4.]*

### **27. Actuarial investigation**

- (1) An actuary shall —
  - (a) assess the actual and contingent liabilities of the Consolidated Account under section 26 as at 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 or accredited member 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; amended by No. 6 of 1993 s. 11; No. 37 of 2000 s. 16; No. 77 of 2006 s. 4.]*

## 28. Tribunal may change the scheme

- (1) In this section —
- benefits* means pensions or other benefits payable under the scheme, whether provided for under Part IV or under a determination made under this section.
- (2) Notwithstanding Parts III and IV and section 25 the Tribunal may inquire into and determine any matter in connection with contributions to and the benefits payable under the scheme.
- (3) Without limiting subsection (2), the Tribunal may inquire into and determine any of the following matters —
- (a) reductions (including to zero) in the amount of contributions to be made to the scheme in respect of members;
  - (b) when and in what circumstances benefits are to be payable, including for example that benefits shall not be payable until a former member attains an age specified by the Tribunal in its determination;
  - (c) in the case of the death of persons entitled to benefits —
    - (i) the entitlements of the estates of those persons;
    - (ii) the entitlements of other persons;
  - (d) to whom benefits may be paid;

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- (e) how the amount of benefits and increases in them are to be calculated;
  - (f) when payments of benefits are to be made, including for example how frequently pensions are to be paid;
  - (g) how benefits may be paid, for example, as lump sums or pensions or a combination of both;
  - (h) the portability of benefits;
  - (i) when and in what circumstances pensions may be wholly or partly commuted and how commutations are to be calculated;
  - (ia) things that may be done to satisfy the requirements of Division 2.2 of the *Family Law (Superannuation) Regulations 2001* of the Commonwealth;
  - (j) any matter connected with any of the matters in paragraphs (a) to (ia).
- (4) A determination under subsection (2) —
- (a) shall not have the effect of changing the scheme from being one under which former members are entitled to be paid a pension that is calculated as set out in section 14;
  - (b) shall not have the effect of reducing the amount of any benefits that —
    - (i) had accrued or become payable to a person before the determination;
    - (ii) had accrued before the determination and to which a member who has contributed to the scheme for not less than 7 years but less than 12 years may become entitled under section 14(1)(b); or
    - (iii) are, or may become, payable in relation to a period before the determination;

- (c) shall not have the effect of changing the circumstances under which a member may qualify for a pension under section 14(1)(b);
  - (d) shall be in accordance with any law of the Commonwealth that is applicable to the scheme; and
  - (e) may make the same provision for all cases or different provisions for different cases or classes of case.
- (5) Subsection (4) does not prevent the making of a determination that reduces or provides for the reduction of any benefits to which a member or former member is or will become entitled if —
- (a) a superannuation agreement, flag lifting agreement or splitting order is in force in respect of the member or former member; and
  - (b) the reduction does not reduce those benefits to less than the member's or former member's entitlement under the agreement or order.
- (6) In subsection (5), *flag lifting agreement*, *splitting order* and *superannuation agreement* each have the meaning given to them in section 90MD of the *Family Law Act 1975* of the Commonwealth.

*[Section 28 inserted by No. 37 of 2000 s. 17; amended by No. 18 of 2006 s. 4.]*

**29. State contributions for MPs who are not participants in the scheme**

- (1) In this section —
- complying superannuation fund* has the meaning it has in the SG(A) Act;
- individual superannuation guarantee shortfall* has the meaning it has in the SG(A) Act;

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***non-participant*** means a member in respect of whom contributions have never been made to the scheme or a member who has made an election under section 10(2);

***SG(A) Act*** means the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

- (2) The State shall make contributions towards superannuation for every person who is a non-participant.
- (3) The State's contributions in respect of a non-participant —
  - (a) shall be made in accordance with a determination made from time to time by the Tribunal but in any event shall not be less than the minimum amount that the State must contribute in respect of the non-participant in order to avoid incurring an individual superannuation guarantee shortfall in respect of the non-participant;
  - (b) shall be paid at such time or times as the Minister determines but in any event in such a manner that the State does not incur an individual superannuation guarantee shortfall in respect of the non-participant; and
  - (c) shall be paid to a complying superannuation fund in accordance with the Minister's determination under subsection (4).
- (4) The Minister, by a written instrument, shall from time to time determine to which complying superannuation fund or funds the State's contributions shall be paid.
- (5) The State's contributions shall be charged to the Consolidated Account which is appropriated accordingly.

*[Section 29 inserted by No. 37 of 2000 s. 18; amended by No. 77 of 2006 s. 4.]*

**30. Pensions etc. not assignable etc.**

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 spouse or de facto

partner, the right or interest of any member or former member or of the spouse or de facto partner 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 spouse or de facto partner 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 spouse or de facto partner and children and shall not inure for the benefit of their respective estates.

*[Section 30 amended by No. 31 of 1989 s. 14; No. 3 of 2002 s. 91(1).]*

**31. Regulations**

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.

**Schedule — Title of Act**

[s. 4]

*[Heading amended by No. 19 of 2010 s. 4.]*

*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.*



### Notes

<sup>1</sup> This is a compilation of the *Parliamentary Superannuation Act 1970* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

#### Compilation table

Short title	Number and year	Assent	Commencement
<i>Parliamentary Superannuation Act 1970</i>	36 of 1970	27 May 1970	Pt. IV: 1 Jan 1970 (see s. 2(2)); Act other than Pt. IV: 27 May 1970 (see s. 2(1))
<i>Parliamentary Superannuation Act Amendment Act 1971</i>	22 of 1971	1 Dec 1971	30 Dec 1970 (see s. 2)
<i>Parliamentary Superannuation Act Amendment Act 1975</i>	94 of 1975	20 Nov 1975	Act other than s. 4 and 5: 20 Nov 1975 (see s. 2(1)); s. 4 and 5: 1 Jan 1976 (see s. 2(2))
<i>Parliamentary Superannuation Act Amendment Act 1976</i>	115 of 1976	1 Dec 1976	1 Jan 1977 (see s. 2)
<i>Parliamentary Superannuation Amendment Act 1980</i>	54 of 1980	19 Nov 1980	s. 6: 22 Feb 1980 (see s. 2(2)); Act other than s. 6: 19 Nov 1980 (see s. 2(1))
<b>Reprint of the <i>Parliamentary Superannuation Act 1970</i> approved 15 Jan 1981</b> (includes amendments listed above)			
<i>Acts Amendment (Financial Administration and Audit) Act 1985 s. 3</i>	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Acts Amendment (Parliamentary Superannuation) Act 1986 Pt. I</i> <sup>5, 6, 7, 8</sup>	58 of 1986	26 Nov 1986	24 Dec 1986
<i>Acts Amendment (Parliamentary Superannuation) Act 1987 Pt. I</i>	103 of 1987	16 Dec 1987	16 Dec 1987 (see s. 2)

## Parliamentary Superannuation Act 1970

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Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Parliamentary Superannuation) and Transitional Arrangements Act 1988 Pt. 3</i> <sup>9</sup>	6 of 1988 (as amended by No. 31 of 1989 s. 17)	30 Jun 1988	Act other than s. 5 and 6(b) and Pt. 4: 30 Jun 1988 (see s. 2(1)); s. 5 and 6(b) and Pt. 4: 22 May 1989 (see s. 2(2))
<i>Acts Amendment (Parliamentary Superannuation) Act 1989 Pt. 2</i> <sup>10, 11</sup>	31 of 1989	15 Dec 1989	15 Dec 1989 (see s. 2)
<b>Reprint of the Parliamentary Superannuation Act 1970 as at 25 Sep 1991</b> (includes amendments listed above)			
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Parliamentary Superannuation Legislation Amendment Act 2000 Pt. 2</i> <sup>3</sup>	37 of 2000	10 Oct 2000	10 Oct 2000 (see s. 2)
<i>Acts Amendment (Lesbian and Gay Law Reform) Act 2002 Pt. 17</i>	3 of 2002	17 Apr 2002	21 Sep 2002 (see s. 2 and <i>Gazette</i> 20 Sep 2002 p. 4693)
<b>Reprint 3: The Parliamentary Superannuation Act 1970 as at 4 Apr 2003</b> (includes amendments listed above)			
<i>Superannuation Legislation Amendment and Validation Act 2006 Pt. 2</i>	18 of 2006	31 May 2006	31 May 2006 (see s. 2)
<i>Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 17 Div. 7</i>	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
<i>Financial Legislation Amendment and Repeal Act 2006 s. 4</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<b>Reprint 4: The Parliamentary Superannuation Act 1970 as at 4 Jul 2008</b> (includes amendments listed above)			
<i>Standardisation of Formatting Act 2010 s. 4</i>	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)

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<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

**Provisions that have not come into operation**

Short title	Number and year	Assent	Commencement
<i>Parliamentary Superannuation Amendment Act 2011</i> s. 3-15 <sup>12</sup>	34 of 2011	12 Sep 2011	To be proclaimed (see s. 2(b))

<sup>2</sup> Repealed by the *Salaries and Allowances Tribunal Act 1975* s. 13.

<sup>3</sup> The *Parliamentary Superannuation Legislation Amendment Act 2000* s. 8(2) reads as follows:

“

- (2) If immediately before the commencement of this section, section 11(1a) of the *Parliamentary Superannuation Act 1970* applied in respect of a member, then on and after the commencement section 11(1a) continues to apply in respect of the member despite the repeal of section 11(1a) by this section.

”

<sup>4</sup> Repealed by the *Parliamentary Superannuation Act 1948* which was repealed by this Act.

<sup>5</sup> The *Acts Amendment (Parliamentary Superannuation) Act 1986* s. 4(2) 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.

”

<sup>6</sup> The *Acts Amendment (Parliamentary Superannuation) Act 1986* s. 5(2) 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.

7 The *Acts Amendment (Parliamentary Superannuation) Act 1986* s. 6(2) 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 The *Acts Amendment (Parliamentary Superannuation) Act 1986* s. 7(2) 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.

”

9 The *Acts Amendment (Parliamentary Superannuation) and Transitional Arrangements Act 1988* Pt. 4 (as amended by the *Acts Amendment (Parliamentary Superannuation) Act 1989* s. 17) reads as follows:

“

## **Part 4 — Transitional arrangements**

### **7. Interpretation**

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;

***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.

*[Section 7 amended by No. 31 of 1989 s. 17(a).]*

#### **8. Benefits for transitioned persons**

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.

*[Section 8 amended by No. 31 of 1989 s. 17(b).]*

#### **9. Transitioned persons having no pension entitlement**

- (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 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.

*[Section 9 amended by No. 31 of 1989 s. 17(c).]*

**10. Transitioned persons who held higher office**

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.

”

<sup>10</sup> The *Acts Amendment (Parliamentary Superannuation) Act 1989* s. 5(2) 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.

”

<sup>11</sup> The *Acts Amendment (Parliamentary Superannuation) Act 1989* s. 16 reads as follows:

“

**16. Transitional provisions relating to the repeal of Part II**

- (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
  - (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 authorised 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.

<sup>12</sup> On the date as at which this compilation was prepared, the *Parliamentary Superannuation Amendment Act 2011* s. 3-15 had not come into operation. They read as follows:

**3. Act amended**

This Act amends the *Parliamentary Superannuation Act 1970*.

**4. Section 5 amended**

In section 5(1) insert in alphabetical order:

*benefit certificate* has the meaning given in the SG(A) Act section 10;

*complying superannuation fund* has the meaning given in the SG(A) Act section 7;

*individual superannuation guarantee shortfall* has the meaning given in the SG(A) Act section 19;

*SG(A) Act* means the *Superannuation Guarantee (Administration) Act 1992* (Commonwealth);

**5. Section 6 amended**

(1) Delete section 6(3)(b) and insert:

- (b) 5 other Board members, of whom —
  - (i) 2 are to be appointed by the Legislative Council from members of the Council; and



- (ii) 2 are to be appointed by the Legislative Assembly from members of the Assembly; and
- (iii) one is to be appointed by the Minister from former members to whom the scheme applies.

(2) In section 6(4) delete “subsection (3)(b)” and insert:

subsection 3(b)(i) and (ii)

(3) After section 6(4) insert:

(5A) The Minister is to make an appointment under subsection (3)(b)(iii) whenever required to fill a vacancy.

(4) In section 6(6):

(a) delete “member —” and insert:

member appointed under subsection (3)(b)(i) or (ii) —

(b) after paragraphs (a) and (b) insert:

and

(5) After section 6(6) insert:

(7) A Board member appointed under subsection (3)(b)(iii) —

- (a) may be removed by the Minister; and
- (b) may resign by notice in writing to the Minister; and
- (c) ceases to hold office on the day fixed for the taking of the poll next following a dissolution or expiry of the Legislative Assembly.

**6. Section 7 amended**

In section 7(2) delete “3” and insert:

4

**7. Section 10 deleted**

Delete section 10.

**8. Section 14 amended**

- (1) In section 14(1)(b) after each of subparagraphs (i), (ia) and (ii) insert:

or

- (2) In section 14(1aa) after paragraph (a) insert:

and

- (3) In section 14(1a)(b) after each of subparagraphs (i) and (iii) insert:

and

- (4) In section 14(3) after “at the rate” insert:

of 10% per annum or at such other rate as may be

**9. Section 16 amended**

After section 16(2)(a) insert:

and

**10. Section 19 amended**

Delete section 19(4) and (5) and insert:

- (4) A pension is not payable under this section to a spouse or de facto partner referred to in subsection (1) or (1a) if the marriage to the former member took place after the former member finally ceased to be a member except in the following cases —

- (a) if the former member died before the coming into operation of the *Parliamentary Superannuation Amendment Act 2011* section 10 a pension is payable —

- (i) if the spouse or de facto partner is aged 55 years or more at the date of the former member's death, as from that date; or
  - (ii) if the spouse or de facto partner is aged less than 55 years at the date of the former member's death, as from the date of attaining that age;
- (b) if the former member dies on or after the coming into operation of the *Parliamentary Superannuation Amendment Act 2011* section 10 a pension is payable if —
- (i) the marriage took place not less than 5 years before the date of the former member's death; or
  - (ii) at the date of the former member's death there is at least one child of the former member and the spouse or de facto partner who is wholly or substantially dependent on them; or
  - (iii) the Board is satisfied that —
    - (I) the marriage was of a bona fide nature; and
    - (II) the special circumstances of the case warrant the payment of a pension to the spouse or de facto partner;
- (c) if the former member dies on or after the coming into operation of the *Parliamentary Superannuation Amendment Act 2011* section 10 and the marriage to the former member took place before the coming into operation of that Act and no pension is payable under paragraph (b) a pension is payable —
- (i) if the spouse or de facto partner is aged 55 years or more at the date of the former member's death, as from that date; or
  - (ii) if the spouse or de facto partner is aged less than 55 years at the date of the former member's death, as from the date of attaining that age.

**11. Section 19B amended**

- (1) In section 19B(1) delete "A spouse or de facto partner of a member" and insert:

Where a member dies before the coming into operation of the *Parliamentary Superannuation Amendment Act 2011* section 11, a spouse or de facto partner of the member

(2) After section 19B(1) insert:

(2A) Where a member or former member dies on or after the coming into operation of the *Parliamentary Superannuation Amendment Act 2011* section 11, a spouse or de facto partner of the member or former member who becomes entitled to be paid an annual pension pursuant to section 19 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) all or part of the annual pension entitlement.

(3) In section 19B(2) after “subsection (1)” (each occurrence) insert:

or (2A)

**12. Section 23 amended**

In section 23(1):

(a) in paragraph (c) delete “3%” and insert:

5%

(b) in paragraph (d) delete “6%” and insert:

10%

**13. Section 24 replaced**

Delete section 24 and insert:

**24. Minimum Benefits**

(1) Subject to subsection (2), the Board is to pay a minimum benefit to or in respect of each member of —

- (a) the amount of the member's contributions with interest at the rate of 10% per annum; plus
  - (b) any further amount which, in the opinion of an actuary who prepares a benefit certificate in relation to the member, the scheme must provide if the individual superannuation guarantee shortfall for the member is to be nil.
- (2) The Tribunal may from time to time inquire into and determine an alternative basis for calculating the amount of the minimum benefits payable under the scheme having regard to the SG(A) Act, and the Board is to pay minimum benefits in accordance with any determination.

**14. Section 29 amended**

Delete section 29(1) and insert:

- (1) In this section —
- non-participant* means a member in respect of whom contributions have never been made to the scheme or a member who has during the period beginning on 10 October 2000 and ending on 30 June 2001 elected to cease participating in the scheme.

**15. Various provisions amended to remove gender-specific language**

Amend the provisions listed in the Table as set out in the Table.

**Table**

Provision	Delete	Insert
s. 5(1) def. of <i>salary</i> par. (a)	the basic salary of the member together with any salary paid to him	the member's basic salary together with any salary
s. 5(1) def. of <i>salary</i> par. (b)	the basic salary of the member together with any additional remuneration paid to him	the member's basic salary together with any additional remuneration paid

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 5(1) def. of <i>salary</i> par. (b)	payable to him	payable to the member
s. 5(2)	his	
s. 6(5)	on his behalf	on behalf of the Minister
s. 6(6)(a)	he	the member
s. 6(6)(c)	if he ceases	upon ceasing
s. 13(1) def. of <i>basic pension</i>	he ceased	ceasing
s. 13(2)	he so contributed	the person so contributed
s. 13(2)	which he received	received
s. 14(1)(b)(i)	when he so ceases	upon so ceasing
s. 14(1)(b)(ii), (iii) and (iv)	his	
s. 14(1aa)	he (first occurrence)	the member
s. 14(1aa)(a) and (b)	he	the member
s. 14(1aa)(c)	his (each occurrence)	the member's
s. 14(1a)(a)(i)	he shall, whether or not he is elected	the member shall, whether or not elected
s. 14(1a)(a)(i)	his resignation	the resignation
s. 14(1a)(a)(i)	he pays	the member pays
s. 14(1a)(a)(i)	he would have been required to make had he continued	would have been required had the member continued

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 14(1a)(a)(i)	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	the member, if defeated at the election for the Legislative Assembly, shall be entitled to the same pension, if any, to which the member would have been entitled on ceasing
s. 14(1a)(a)(i)	his being defeated	being defeated
s. 14(1a)(a)(ii)	he (each occurrence)	the member
s. 14(1a)(a)(ii)	his death (each occurrence)	death
s. 14(1a)(a)(ii)	his spouse	the member's spouse
s. 14(1a)(a)(ii)	his resignation	the resignation
s. 14(1a)(b)(i)	he shall, if he is elected	the member shall, if elected
s. 14(1a)(b)(i)	the day on which he ceased	the day of ceasing
s. 14(1a)(b)(i)	he becomes	the member becomes
s. 14(1a)(b)(i)	he pays	the member pays
s. 14(1a)(b)(i)	he would have been required to make if he had continued	would have been required had the member continued
s. 14(1a)(b)(iii)	he shall, if he is defeated	the member shall, if defeated
s. 14(1a)(b)(iii)	he would have been entitled if he had been defeated	the member would have been entitled, if defeated

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 14(1a)(b)(iv)	he shall, if he dies	the member shall, in the event of dying
s. 14(1a)(b)(iv)	his death (each occurrence)	death
s. 14(1a)(b)(iv)	his spouse	the member's spouse
s. 14(1a)(b)(iv)	he shall be deemed	the member shall be deemed
s. 14(1a)(b)(iv)	the day on which he ceased	the day of ceasing
s. 14(3)	he	the person
s. 14(3)	contributions made by him	the person's contributions
s. 14(3)	to him	
s. 14(3a)	he	that person
s. 14(4) and (5)	he (each occurrence)	that person
s. 14(6)	his	an
s. 16(1)	his so ceasing	so ceasing
s. 16(1)	his annual	the person's annual
s. 16(2)(a)	when he ceases	on ceasing
s. 16(2)(a)	before he ceases	before ceasing
s. 16(2)(b)	before he ceases	before ceasing
s. 16(2)(b)	when he ceases	on ceasing



<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 16(3)	when he so ceased (each occurrence)	on so ceasing
s. 16(3)	he (first occurrence)	the former member
s. 16(3)(a) and (b)	he	the former member
s. 16(4)	his (first occurrence)	the former member's
s. 16(4)	his (second occurrence)	the
s. 17(1)	his (first occurrence)	an
s. 17(1)	he again became	again becoming
s. 17(1)	he would	that person would
s. 17(1)	if he had not so converted	but for so converting
s. 17(1)	his (second occurrence)	the
s. 17(2)	the amount of annual pension payable to him under this Act	the annual amount of the pension
s. 18(1)	she is entitled until her death	the spouse is entitled until death
s. 18(2)	his	
s. 18(3)	she (each occurrence)	the spouse or de facto partner
s. 18A	her	the

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 18B	her (each occurrence)	the
s. 19(1)	her	
s. 19(1)(a)	he	the former member
s. 19(1)(a)	his	the former member's
s. 19(1)(b)	he had not died and if he had retired	the former member had not died but retired
s. 19(1)(b)	his death	death
s. 19(1)(b)	his pension	the former member's pension
s. 19(1b)(a)	his	an
s. 19(1b)(b)	his (first occurrence)	an
s. 19(1b)(b)	his (last occurrence)	the
s. 19(2)	her death	death
s. 19(2)	to the member if he	if the member
s. 19(2)	his death	the member's death
s. 19(3)	her death	death
s. 19(3)(a)	he had	the member had
s. 19(3)(a)	the same day as that on which he died	the date of death
s. 19(3)(b)	he had	the member had
s. 19(3)(b)	the same day as that on which he died	the date of death

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 19B(1)	her	the
s. 19B(2)(a)	when she becomes	on becoming
s. 19B(2)(a)	before she became	before becoming
s. 19B(2)(b)	before she became	before becoming
s. 19B(2)(b)	when she becomes	on becoming
s. 20(1)	he may	the person may
s. 20(1)(a)	His	
s. 20(1)(a)	so made to him	made under section 14(3)
s. 20(1)(b)	he continues	the person continues
s. 20(1)(b)	so made to him	made under section 14(3)
s. 21	His	the
s. 22	Him	the former member
s. 22	he receives	received
s. 23(1)	His	
s. 23(2)	His	an
s. 30	his spouse or de facto partner (first occurrence)	the spouse or de facto partner of the member
s. 30	or his spouse or de facto partner or children	or the spouse or de facto partner or children of the member or former member
s. 30	to his spouse	to the spouse



## Defined Terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined Term</b>	<b>Provision(s)</b>
actuary.....	27(2)
basic pension.....	13(1)
basic salary.....	5(1)
benefits.....	28(1)
Board.....	5(1)
closing day.....	5(1)
complying superannuation fund.....	29(1)
election.....	5(1)
eligible person.....	10(1)
flag lifting agreement.....	28(6)
Index.....	5(1)
individual superannuation guarantee shortfall.....	29(1)
member.....	5(1)
non-participant.....	29(1)
pay day.....	5(1)
salary.....	5(1)
scheme.....	5(1)
set period.....	10(1)
SG(A) Act.....	29(1)
specified.....	13(1)
splitting order.....	28(6)
spouse or de facto partner.....	5(1)
superannuation agreement.....	28(6)
termination benefits.....	10(3)(a)
the repealed Act.....	5(1)
the specified age.....	16(2a), 19B(3)
Tribunal.....	5(1)