

[Act 1999 No 89]



New South Wales

# Parliamentary Contributory Superannuation Amendment Bill 1999

## Explanatory note

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

## Overview of Bill

The object of this Bill is to amend the *Parliamentary Contributory Superannuation Act 1971*:

- (a) to shorten periods for reporting relating to actuarial investigation of the Parliamentary Contributory Superannuation Fund (the **Fund**), and
  - (b) to prevent payment of pensions for new members until age 55 is reached and to permit payment, before that time, only in other appropriate circumstances, including circumstances of financial hardship, ill-health and incapacity, and
  - (c) to enable the payment of the whole of a former member's pension entitlement to be commuted to a lump sum benefit, and
  - (d) to provide for preservation of lump sum benefits in accordance with Commonwealth standards, and
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- (e) to permit indexation of pensions payable to former members under the *Legislative Assembly Members Superannuation Act 1946*, and
- (f) to make other consequential and statute law revision amendments, and
- (g) to make provision of a savings and transitional nature.

## Outline of provisions

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

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

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

## Schedule 1 Amendments

### Requirements for actuarial investigation

An investigation of the Fund is required to be carried out every 3 years by an actuary appointed by the trustees of the Fund. Currently, the actuary must report the results of the investigation not later than 12 months after the date of the investigation. **Schedule 1 [2]** reduces the period for the report to 6 months after the date of the investigation. **Schedule 1 [3]** requires the trustees to forward the actuary's report to the Minister not later than 1 month after receiving it.

### Deferral of payment of pensions

Currently, a pension is payable to a person who ceases to be a member of Parliament when the member ceases to be such a member and has been a member for at least 7 years, without any regard to the age of the member. The proposed amendments prevent a pension being paid to a former member unless the member has reached the age of 55 years or has satisfied other conditions for payment on the grounds of ill-health or incapacity or financial hardship.

**Schedule 1 [5]** inserts proposed sections 19B–19F. Proposed section 19B defers payment of pensions to former members until they reach the age of 55 years or until they satisfy a ground set out in proposed section 19D or 19E. The proposed section does not prevent a former member from electing to convert part of a

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pension to a lump sum benefit. The proposed provisions will apply only to new members who are first elected after the date of assent to the proposed Act. Proposed section 19C provides that a deferred pension is to be calculated as at the date the former member ceased to be a member, with allowance for certain salary increases, and is to be subject to the same adjustments and reductions as other pensions under the Act. The proposed section also provides for the payment of pensions to spouses and dependent children of former members who die before a deferred pension becomes otherwise payable. Proposed section 19D enables the trustees to pay a deferred pension on the ground of a former member's financial hardship. Proposed section 19E enables the trustees to pay a deferred pension on the grounds of the former member's ill-health or incapacity. Proposed section 19F makes provision with respect to applications for deferred pensions.

**Schedule 1 [15]–[18]** make consequential amendments.

#### **Conversion of pensions to lump sum benefits**

Currently, the amount of pension entitlement of a former member that may be converted to a lump sum benefit is restricted to particular percentages of pension that vary according to the age of the former member making the election to take a lump sum benefit. The maximum percentage of pension entitlement that may be converted is 75 per cent.

**Schedule 1 [7]** and **[11]** remove the limitations on the amount of pension entitlements that may be converted to lump sum benefits. A former member is to be entitled to convert the whole or any part of his or her pension entitlements. Existing restrictions on the amount of entitlements that may be converted by a person whose pension has been suspended because of being a member or the spouse of a member of the Commonwealth Parliament and who has been granted additional pension at the discretion of the trustees are to be retained. Provisions relating to the time within which elections to commute must be made and as to the calculation of the benefit are to remain as at present.

**Schedule 1 [6], [8], [9]** and **[13]** make consequential amendments.

#### **Preservation of certain benefits**

Regulations under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth set out standards for the preservation and release (or payment) of superannuation benefits. The proposed amendments bring the Fund into line with Commonwealth standards for regulated superannuation funds in relation to requirements to preserve benefits. Currently, benefits paid in the form of non-

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commutable life pensions are payable without restriction. The proposed provisions apply to lump sum payments.

**Schedule 1 [14]** repeals section 22B and inserts proposed new sections 22B and 22BA. Proposed section 22B requires the trustees to preserve all or so much of a lump sum benefit as is required to be preserved under a Commonwealth superannuation standard that would be applicable if the Fund were a regulated superannuation fund under Commonwealth legislation (a *relevant Commonwealth superannuation standard*). Interest is to accrue in respect of the preserved amount at a rate determined by the trustees. Administration costs may be deducted from the amount preserved. Proposed section 22BA enables the payment of the whole or part of a preserved benefit in accordance with the requirements of the relevant Commonwealth superannuation standard. The proposed section also enables the payment of the whole or part of a lump sum benefit to a regulated superannuation fund, an approved deposit fund, a retirement savings account or for the purchase of a deferred annuity. A deferred annuity may be purchased only if it meets certain conditions as to payment.

**Schedule 1 [1]** makes a consequential amendment.

#### **Indexation of pensions under former Act**

Pensions and allowances paid to former members and others under the *Legislative Assembly Members Superannuation Act 1946* (the *former Act*), which was replaced by the Principal Act, have continued to be paid under the provisions of that Act. Provision was made to this effect in the Principal Act. The former Act did not provide for the indexation of these pensions. However, indexation or adjustment of the pensions in line with the consumer price index has taken place by way of ex gratia payments.

**Schedule 1 [22]** and **[25]** provide for the adjustment of these pensions and allowances according to movements in the Consumer Price Index for Sydney. The adjustments are for the years commencing 1 July 1994. Adjustment is to take place annually and the provisions inserted reflect those applicable to adjustment of pensions under the *Superannuation Act 1916*. Adjustments made before the commencement of the proposed amendments are taken to be in accordance with the proposed Schedule 2 that contains the provisions relating to adjustments. Previous adjustments are validated.

**Schedule 1 [20]** makes a consequential amendment.

#### **Other amendments**

**Schedule 1 [4]** inserts some missing words.

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**Schedule 1 [21]** corrects a reference to a previous section.

**Schedule 1 [10], [12] and [19]** make statute law revision amendments.

**Schedule 1 [23] and [24]** insert savings and transitional provisions consequent on the proposed amendments.