

Parliamentary Superannuation Legislation Amendment Act 2005 No 110

[2005-110]



New South Wales

Status Information

Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

The Act was repealed by Sch 4 to the [Statute Law \(Miscellaneous Provisions\) Act 2006 No 58](#) with effect from 20.6.2006.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Contents

Long title	3
1 Name of Act	3
2 Commencement	3
3 Amendment of Parliamentary Contributory Superannuation Act 1971 No 53	3
4 Amendment of Parliamentary Remuneration Act 1989 No 160	3
Schedule 1 Amendment of Parliamentary Contributory Superannuation Act 1971	3
Schedule 2 Amendment of Parliamentary Remuneration Act 1989	7

Parliamentary Superannuation Legislation Amendment Act 2005 No 110



New South Wales

An Act to amend the *Parliamentary Contributory Superannuation Act 1971* and the *Parliamentary Remuneration Act 1989* to close the Parliamentary Contributory Superannuation Scheme to new members from the 2007 State general election and to provide instead for an accumulation style superannuation benefit for new members of Parliament; and for other purposes.

1 Name of Act

This Act is the *Parliamentary Superannuation Legislation Amendment Act 2005*.

2 Commencement

This Act commences on the date of assent to this Act.

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

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

4 Amendment of *Parliamentary Remuneration Act 1989 No 160*

The *Parliamentary Remuneration Act 1989* is amended as set out in Schedule 2.

Schedule 1 Amendment of *Parliamentary Contributory Superannuation Act 1971*

(Section 3)

[1] Part 1A

Insert after Part 1:

Part 1A Closure of Scheme from 2007 general election

4A Closure of Parliamentary Contributory Superannuation Scheme

- (1) The Parliamentary Contributory Superannuation Scheme is closed to members elected at or after the 2007 general election, other than continuing members.
- (2) Accordingly, a member elected at or after the 2007 general election who is not a continuing member is not entitled:
 - (a) to have deductions made from the member's salary under this Act, or
 - (b) to have any period of service during which the member is not a continuing member after that election taken into account in determining any benefit payable to or in respect of the member under this Act.
- (3) For the purposes of this Act, a person is a ***continuing member*** if:
 - (a) the person was a member of either House of Parliament at any time within the period of 3 months before polling day at the 2007 general election, and
 - (b) the person was elected to either House of Parliament at the 2007 general election or within 3 months after polling day at that election, and
 - (c) since polling day at that election, the person has not ceased to be a member of either House of Parliament for a continuous period exceeding 3 months.
- (4) In this Part, ***2007 general election*** means the first State general election held after the commencement of this section.

[2] Section 18B

Insert after section 18A:

18B Election to cease salary deductions on reaching age 65

- (1) A member may elect, by notice in writing served on the trustees, to cease to have deductions from salary instalments made under section 18 if:
 - (a) the member is 65 years or more of age, and
 - (b) the member has been entitled to salary in respect of an aggregate period of 20 years or more (including any period before the commencement of this section).
- (2) A member may not revoke an election made under this section.
- (3) An election made under this section takes effect when it is approved by the trustees.

- (4) On the election taking effect, deductions from the member's salary are not required to be made under this Act.
- (5) An election under this section continues to have effect if, after ceasing to be a member, the person again becomes a member.
- (6) A benefit payable under this Act to or in respect of a member who makes an election under this section is to be calculated as if the member ceased to be entitled to receive salary on the day the election took effect.
- (7) A benefit is not payable under this Act to or in respect of a member who makes an election under this section until it is payable under another provision of this Act.

[3] Section 19B Deferral of certain pensions

Omit section 19B (2).

[4] Section 20 Right to convert pension to lump sum entitlement

Insert in alphabetical order in section 20 (1):

entitled to a pension means that a pension is payable by the trustees under this Part.

[5] Section 20 (11) (a)

Omit "after the former member ceases to be a member".

Insert instead "after the former member becomes entitled to a pension under this Part".

[6] Section 23 Pension for spouses or de facto partners

Insert "(1) (paragraph (a) excepted)," before "(2)" in section 23 (12).

[7] Section 26A Arrangements for transfer to Commonwealth scheme

Omit the section.

[8] Section 26D Power of trustees to adjust benefits in relation to certain liabilities

Omit "23 (2) or (3), 26A" from section 26D (6).

Insert instead "23 (1) (paragraph (a) excepted), (2) or (3)".

[9] Section 32C

Insert after section 32B:

32C Member who dies on polling day

For the purposes of this Act and the regulations, a person is taken to have been a member at the time of his or her death if:

- (a) the person dies on the day of, and before the close of, a poll for an election of one or more members of the Legislative Assembly or the Legislative Council, and
- (b) the person was a member for the purposes of the *Parliamentary Remuneration Act 1989* immediately before the day of the poll, and
- (c) the person was seeking election on that day as a member (whether or not to represent the same electorate or to the same House of Parliament).

[10] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Parliamentary Superannuation Legislation Amendment Act 2005

[11] Schedule 1, clause 6 (1A) and (1B)

Insert after clause 6 (1):

(1A) Sections 21A, 21B and 23 apply, and are taken always to have applied, to and in respect of a person paid a pension under section 22C before its repeal (and to any such pension continued by this clause) in the same way as those sections apply to and in respect of a person who commutes a pension under section 20.

(1B) Nothing in subclause (1A) limits the operation of any other provision of this clause or clause 7.

[12] Schedule 1, clause 10

Insert after clause 9:

10 Surcharge reductions for certain spouse pensions

A reduction of a benefit payable under section 23 (1) (paragraph (a) excepted), on the basis set out in section 26D, that is made before the commencement of this clause is taken to have been validly made, if it would have been valid if made after the commencement of the *Parliamentary Superannuation Legislation Amendment Act 2005*.

Schedule 2 Amendment of [Parliamentary Remuneration Act 1989](#)

(Section 4)

[1] Section 2A Purpose of Act

Insert at the end of section 2A (1) (d):

, and

- (e) superannuation arrangements are provided for members who are not continuing members of the closed Parliamentary Contributory Superannuation Fund.

[2] Section 3 Definitions

Insert at the end of the section:

- (2) Notes in the text of this Act do not form part of this Act.

[3] Part 3A, Division 1, heading

Insert before section 14A:

Division 1 **Approval of amendments to [Parliamentary Contributory Superannuation Act 1971](#)**

[4] Section 14A Superannuation approvals

Omit “Part” from section 14A (5). Insert instead “Division”.

[5] Part 3A, Division 2

Insert after section 14A:

Division 2 Superannuation arrangements for post-2007 members

14B Application of Division

- (1) This Division applies to members, other than continuing members under the [Parliamentary Contributory Superannuation Act 1971](#).

Note—

Section 4A of the [Parliamentary Contributory Superannuation Act 1971](#) closes the Parliamentary Contributory Superannuation Scheme to members elected at or after the 2007 general election (other than existing members who are re-elected).

- (2) In this section, a **continuing member** includes a member who has elected to cease to have deductions of salary made under section 18B of the [Parliamentary](#)

Contributory Superannuation Act 1971.

14C Definitions

In this Division:

complying approved deposit fund means a complying approved deposit fund for the purposes of section 47 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

complying superannuation fund means a complying superannuation fund for the purposes of section 45 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

First State Superannuation Fund has the same meaning as **Fund** has in the *First State Superannuation Act 1992*.

retirement savings account has the same meaning as in the *Retirement Savings Accounts Act 1997* of the Commonwealth.

salary of a member means:

- (a) the maximum contribution base within the meaning of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth, or
- (b) the remuneration payable to the person by way of basic salary and additional salary (if any), or
- (c) the salary of the member prescribed by the regulations for the purposes of this definition,

whichever is the greatest.

2007 general election means the first State general election held after the commencement of this section.

14D Superannuation contributions for members

- (1) The State of New South Wales must make, for each member, a superannuation contribution equivalent to the salary contribution percentage for the person for each financial year, or part, for which the person is a member of Parliament.
- (2) A contribution is not required to be made in respect of any period before the 2007 general election.
- (3) The superannuation contribution payable under this section, and any additional contributions under section 14F, are payable out of the Consolidated Fund, which, to the necessary extent, is appropriated accordingly.

(4) In this section:

salary contribution percentage for a person means:

- (a) 9% of the salary, unless paragraph (b) applies, or
- (b) such other greater percentage of the salary of the person as may be prescribed by the regulations for the purposes of this definition.

14E Payment of superannuation contributions

(1) The contribution payable under section 14D for a member is to be paid:

- (a) to the First State Superannuation Fund, or
- (b) if a nomination is in force under this section, to the nominated complying superannuation fund, complying approved deposit fund or retirement savings account.

- (2) A member may, by notice in writing to the Treasurer, nominate a complying superannuation fund other than the First State Superannuation Fund or a complying approved deposit fund or retirement savings account as the fund or account to which the contribution is to be paid.
- (3) A member may, by notice in writing to the Treasurer, revoke or vary a nomination under this section at any time.
- (4) The regulations may make provision for or with respect to matters relating to membership of the First State Superannuation Fund of members for whom contributions are paid to the Fund under this section and other ancillary matters. The regulations may, for that purpose, apply provisions of the *First State Superannuation Act 1992* with any necessary modifications.

14F Salary sacrifice arrangements

- (1) A member may elect, by notice in writing to the Treasurer, to make additional superannuation contributions by way of salary sacrifice.
- (2) An election under this section does not affect the amount that would otherwise constitute the salary of a member for the purposes of employer contributions to superannuation under section 14D.
- (3) An election may be made at any time, but only in respect of future salary payments.
- (4) An election is to specify the percentage or amount of the member's basic salary and additional salary (if any) payable to the member that is to be used to make the additional superannuation contributions. The percentage or amount so specified is not to exceed 50%, or a greater percentage prescribed by the

regulations, of the total basic salary and any additional salary of the member.

- (5) An election is to be in the form approved by the Treasurer and to be accompanied by the information required by the Treasurer.
- (6) A member may elect, by notice in writing to the Treasurer, to vary or revoke an election.
- (7) An election takes effect when it is approved by the Treasurer and the trustee or administrator of the superannuation fund or account concerned.
- (8) If an election is in force under this section:
 - (a) the basic salary and additional salary (if any) otherwise payable to the member is to be reduced by the amount of the contributions (despite any other provision of this Act), and
 - (b) any such contributions are to be paid to the First State Superannuation Fund, or to another complying superannuation fund, a complying approved deposit fund or a retirement savings account nominated by the member for that purpose.

[6] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1:

Parliamentary Superannuation Legislation Amendment Act 2005