

**PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION (AMENDMENT) ACT, 1979,
No. 132**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 132, 1979.

An Act to amend the Parliamentary Contributory Superannuation Act, 1971, to make further provision with respect to the pensions and other benefits payable from, and the contributions payable to, the Parliamentary Contributory Superannuation Fund, and for other purposes. [Assented to, 13th November, 1979.]

Parliamentary Contributory Superannuation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Parliamentary Contributory Superannuation (Amendment) Act, 1979".

2. The Parliamentary Contributory Superannuation Act, 1971, is amended in the manner set forth in Schedule 1.

Amendment
of Act
No. 53,
1971.

3. (1) Until there are 5 managing trustees of the Parliamentary Contributory Superannuation Fund appointed by the Legislative Assembly in accordance with section 14 (1) (b) of the Parliamentary Contributory Superannuation Act, 1971, as amended by this Act—

Transitional
provisions.

(a) the managing trustees of the Fund may act notwithstanding that the Legislative Assembly has not made those appointments; and

(b) the amendments made by Schedule 1 (3) (a) and (b) do not apply.

(2) The amendments made by Schedule 1 (5) (a) and (6) (b) do not apply to a former member of the Legislative Council or Legislative Assembly who ceased to be such a member before the commencement of this Act.

Parliamentary Contributory Superannuation (Amendment).

Sec. 2.

SCHEDULE 1.

AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT, 1971.

(1) Section 3, definition of "other benefits"—

After "thereon", insert ", and half-service payments made under section 22A".

(2) Section 14 (1) (b)—

Omit "four members of the Legislative Assembly", insert instead "five members of the Legislative Assembly (of whom at least one shall be a Minister of the Crown)".

(3) (a) Section 16 (1A)—

After section 16 (1), insert :—

(1A) The chairman shall be a member of the Legislative Assembly who is also a Minister of the Crown.

(b) Section 16 (4)—

Omit "three", insert instead "4".

(c) Section 16 (5)—

Omit "a dissolution of Parliament", insert instead "the dissolution or expiry of the Legislative Assembly".

Parliamentary Contributory Superannuation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT, 1971—*continued.*

(4) Section 18—

Omit the section, insert instead :—

18. From each instalment of salary payable to a member, commencing with the first instalment paid after the commencement of the Parliamentary Contributory Superannuation (Amendment) Act, 1979, there shall be deducted an amount equal to $12\frac{1}{2}$ per cent of the gross amount of the instalment before any deductions.

Deductions
from
salaries
of members.

(5) (a) Section 19 (1), (1A), (1B)—

Omit section 19 (1), insert instead :—

(1) Subject to this Act, a person who has been entitled to salary (either after or partly before and partly after the commencement of this Act)—

- (a) in respect of an aggregate period of 10 years or more and ceases, for any reason, to be a member;
- (b) in respect of an aggregate period of 8 years or more but less than 10 years, and ceases to be a member by reason of the dissolution or expiry of the Legislative Assembly and—
 - (i) does not become a candidate at the general election next following that dissolution or expiry by reason of his not securing the support of the

Parliamentary Contributory Superannuation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT, 1971—*continued.*

political party to which he belonged immediately before his so ceasing to be a member;

(ii) becomes a candidate but is defeated at that general election; or

(iii) does not stand for election at that general election for reasons which to the trustees appear to be good and sufficient; or

(c) in respect of an aggregate period of 8 years or more but less than 10 years, and ceases to be a member by reason of his resignation for reasons which to the trustees appear to be good and sufficient,

shall, on his so ceasing to be a member and on his ceasing to be entitled to payment of salary, be entitled to be paid out of the Fund until his death an annual pension at the rate ascertained in accordance with the formula $A \times B$, where—

$$\frac{\quad}{C}$$

A is an amount calculated at the rate equal to the aggregate of 51.2 per cent of current basic salary and, in respect of each month during which he was entitled to receive salary as a member exceeding in the aggregate 8 years, 0.2 per cent of current basic salary, or the rate of 80 per cent of current basic salary, whichever is the lesser;

Parliamentary Contributory Superannuation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT, 1971—*continued.*

B is the total salary received by that person; and

C is the total basic salary in respect of that person.

(1A) Subject to this Act, a person—

- (a) who has been entitled to salary (either after or partly before and partly after the commencement of the Parliamentary Contributory Superannuation (Amendment) Act, 1979) in respect of an aggregate period of less than 8 years;
- (b) who has served in at least 3 Parliaments as referred to in subsection (1B); and
- (c) who ceases to be a member—
 - (i) by reason of his resignation for reasons which to the trustees appear to be good and sufficient; or
 - (ii) by reason of the dissolution or expiry of the Legislative Assembly and—
 - (A) does not become a candidate at the general election next following that dissolution or expiry by reason of his not securing the support of the political party to which he belonged immediately before his so ceasing to be a member;
 - (B) becomes a candidate but is defeated at that general election; or

Parliamentary Contributory Superannuation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT, 1971—*continued.*

- (c) does not stand for election at that general election for reasons which to the trustees appear to be good and sufficient,

shall, on his so ceasing to be a member and on his ceasing to be entitled to payment of salary, be entitled to be paid out of the Fund until his death an annual pension at the rate of 45 per cent of current basic salary.

(1B) For the purposes of subsection (1A) (b), a person has served in at least 3 Parliaments if—

- (a) where he served only as a member of the Legislative Assembly, he has, on each of at least 3 occasions, ceased to be a member of the Legislative Assembly by reason of the dissolution or expiry of the Legislative Assembly;
- (b) where he served only as a member of the Legislative Council, he has, on at least 1 occasion, ceased to be a member of the Legislative Council by reason of the dissolution or expiry of the Legislative Assembly and he has, on each of at least 2 occasions, been a member of the Legislative Council during a general election; or
- (c) where he served as a member of both the Legislative Assembly and Legislative Council, he would have complied with the requirement in paragraph (a) if he had served as a member of the Legislative Assembly during any period he served as a member of the Legislative Council.

Parliamentary Contributory Superannuation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT, 1971—*continued.*

(b) Section 19 (2)—

After “subsection (1)”, insert “or (1A)”.

(c) Section 19 (6), (7)—

Omit the subsections.

(6) (a) Section 20 (1), definition of “former member”—

After “section”, insert “19 (1A) or”.

(b) Section 20 (1), definition of “the prescribed part of
his pension entitlement”—

(i) From paragraph (a) (iii), omit “thirty”, insert
instead “forty”.

(ii) From paragraph (a) (iii), omit “one-third”,
insert instead “one-sixth”.

(c) Section 20 (5)—

Omit “made under subsection (6) of section 19 or
under the former Act”, insert instead “and interest
thereon made under this Act or the former Act and
any half-service payments made under section 22A”.

(7) Section 22 (2)—

Omit “fifteen years”, insert instead “10 years”.

Parliamentary Contributory Superannuation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT, 1971—*continued.*

(8) Section 22A—

After section 22, insert :—

Contributors
not entitled
to pension.

22A. (1) In this section—

“half-service payments” means payments made in accordance with subsection (5);

“interest” means compound interest at the rate and calculated in the manner determined by the Treasurer;

“refund of contributions”, in relation to a person who ceases to be a member, means a refund of that person’s contributions and any contributions made by him under the former Act less any amount (not being an amount which that person has contracted to repay to the Fund pursuant to section 24) previously paid to him under this Act or under the former Act as a refund of contributions or previously paid to him as half-service payments.

(2) A person who ceases to be a member after the commencement of the Parliamentary Contributory Superannuation (Amendment) Act, 1979, otherwise than by reason of his death or by reason of the operation of section 13A of the Constitution Act, 1902, and who is not entitled to a pension under this Act shall be entitled to—

(a) a refund of contributions and interest thereon; or

(b) where that person so elects, half-service payments,

but shall not be entitled to both a refund of contributions and half-service payments.

Parliamentary Contributory Superannuation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT, 1971—*continued.*

(3) Where a person ceases to be a member after the commencement of the Parliamentary Contributory Superannuation (Amendment) Act, 1979, by reason of his death and is not survived by a widow or widower, the personal representative of that person shall be entitled to the refund of contributions and interest thereon in relation to that person.

(4) An election by any person for the purposes of subsection (2) (b) shall be made by notice in writing served on the custodian trustee within 14 days after that person ceases to be a member.

(5) A person who is entitled to half-service payments under subsection (2) (b) shall, until the expiration of a period equivalent to half the period he was entitled to salary or until his death, whichever first occurs, be entitled to be paid an annual amount at the rate of 45 per cent of basic salary.

(6) Half-service payments shall be paid by instalments at such intervals as the managing trustees may from time to time determine.

(7) For the purpose of calculating an annual amount payable under subsection (5) to any person, "basic salary" means—

- (a) where the person entitled to the amount last served as a member in the Legislative Council—the salary payable, at the time he ceased to be a member, to a member of the Legislative Council (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate; or

Parliamentary Contributory Superannuation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT, 1971—*continued.*

(b) where the person entitled to the amount last served as a member in the Legislative Assembly—the salary payable, at the time he ceased to be a member, to a member of the Legislative Assembly (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate.

(8) If a person who is receiving half-service payments dies, the personal representative of that person shall be entitled to have paid to him the amount (if any) by which the amount that would have been payable to that person had he not elected to be paid half-service payments exceeds the amount of any instalments of half-service payments paid to that person before his death.

(9) If a person who is receiving half-service payments again becomes a member, his right to receive any further instalments of those payments shall cease.

(9) (a) Section 23 (1), (2), (3), (3A)—

Omit section 23 (1)–(3), insert instead :—

(1) On the death of a former member who immediately before his or her death was receiving, or was entitled to receive, a pension under this Part, the widow or widower (not being a person who married

Parliamentary Contributory Superannuation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT, 1971—*continued.*

the former member after the former member became entitled to that pension) of the former member shall be entitled to an annual pension at the rate of—

(a) three-quarters of the pension that would have been payable from time to time to the former member but for his or her death or if the former member, pursuant to section 20, had converted part of his or her pension entitlement to a lump sum payment, three-quarters of the pension that would have been payable to the former member but for his or her death and if the former member had not so converted part of his or her pension entitlement; or

(b) forty-five per cent of current basic salary, according to whichever rate of pension calculated under paragraph (a) or (b) would have been the greater at the date of the former member's death.

(2) On the death of a member who has been entitled to salary for an aggregate period of 8 years or more, the widow or widower of the member shall be entitled to an annual pension at the rate of—

(a) three-quarters of the pension that would have been payable from time to time to the member but for his or her death if the member had ceased to be a member on the date of his or her death and been entitled to a pension under section 19 (1); or

(b) forty-five per cent of current basic salary, according to whichever rate of pension calculated under paragraph (a) or (b) would have been the greater at the date of the member's death.

Parliamentary Contributory Superannuation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT, 1971—*continued.*

(3) On the death of a member who has been entitled to salary for an aggregate period of less than 8 years, the widow or widower of the member shall be entitled to an annual pension at the rate of forty-five per cent of current basic salary.

(3A) A pension to which the widow or widower of a former member or of a member is entitled under this section shall cease on the death or remarriage of that widow or widower.

(b) Section 23 (5)—

Omit the subsection.

(c) Section 23 (6)—

Omit the subsection, insert instead :—

(6) Subject to subsection (7), where a person entitled to a pension under this section remarries and subsequently again becomes a widow or widower, that person shall, until that person's death or further remarriage, be entitled to pension benefit at the same rate as that person would have been receiving had that person not remarried.

(d) Section 23 (7)—

After "widow", insert "or widower".

Parliamentary Contributory Superannuation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT, 1971—*continued.*

(e) Section 23 (7)—

Omit “she”, insert instead “that widow or widower”.

(f) Section 23 (8)—

After “widow”, insert “or widower”.

(g) Section 23 (8)—

Omit “she”, insert instead “that person”.

(h) Section 23 (9)—

After “widow” wherever occurring, insert “or
widower”.

(i) Section 23 (9)—

Omit “she”, insert instead “that widow or widower”.

(j) Section 23 (9)—

After “her” where firstly occurring, insert “or his”.

(k) Section 23 (9)—

Omit “her” where secondly occurring, insert instead
“that widow or widower”.

Parliamentary Contributory Superannuation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT, 1971—*continued.*

(1) Section 23 (10)—

After section 23 (9), insert :—

(10) Where a member dies before the commencement of the Parliamentary Contributory Superannuation (Amendment) Act, 1979, or a former member who had ceased to be a member before that commencement dies—

- (a) a pension is not payable under this section to the widower of the member or former member; and
- (b) the pension payable to the widow of the member or former member is the pension to which she was entitled under this section, as in force immediately before that commencement.

(10) Section 23A—

After section 23, insert :—

23A. (1) In this section, “pensioner” means a widow or widower who is, after the commencement of the Parliamentary Contributory Superannuation (Amendment) Act, 1979, entitled to a pension under section 23 (2) or, where that pension is suspended under section 26, entitled to a pension under section 26 (2).

(2) The provisions of section 20 apply to and in respect of a pensioner in the same way as they apply to and in respect of a former member.

Right of certain widows or widowers to convert part of pension entitlement to lump sum entitlement.

Parliamentary Contributory Superannuation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT, 1971—*continued.*

(3) For the purposes of subsection (2), a reference in section 20 to a former member ceasing to be a member shall be construed as a reference to a pensioner becoming entitled to a pension.

(11) Section 24—

Omit the section, insert instead :—

24. Where a person has received under this Act or the former Act an amount, being a refund of contributions (with or without interest thereon) or a half-service payment, or both, and that person again becomes a member, any part of the period during which he was entitled to salary, and any occasion on which he ceased to be a member, before he became entitled to that amount shall not be taken into account for the purposes of determining his or any other person's entitlement to a pension or half-service payment under this Act unless, within 3 months, or, if the trustees so allow, 6 months, after he again becomes a member, he contracts with the trustees, in the manner required by the trustees, to repay that amount to the Fund within 3 years.

Repayment
of refund
of contri-
butions,
half-service
payments,
etc., where
person
again
becomes
member.

(12) (a) Section 26 (1)—

After "widow", insert "or widower".

(b) Section 26 (1)—

Omit "his or her", insert instead "that person's".

(c) Section 26 (1)—

Omit "he or she", insert instead "that person".

Parliamentary Contributory Superannuation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT, 1971—*continued.*

(13) (a) Section 27 (1)—

Omit “his widow”, insert instead “the member’s widow or widower”.

(b) Section 27 (1A)—

After section 27 (1), insert :—

(1A) Interest, within the meaning of section 22A (1), shall be paid out of the Fund on any amount that becomes payable under subsection (1) after the commencement of the Parliamentary Contributory Superannuation (Amendment) Act, 1979.
