

**PARLIAMENTARY CONTRIBUTORY SUPERANNUATION  
(AMENDMENT) ACT, 1981, No. 86**

**New South Wales**



ANNO TRICESIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 86, 1981.**

An Act to amend the Parliamentary Contributory Superannuation Act, 1971, with respect to the circumstances in which a pension is payable to a former member of Parliament, the conversion of any such pension to a lump sum and the payment of a pension to children, and in certain other respects. [Assented to, 9th June, 1981.]

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*Parliamentary Contributory Superannuation (Amendment).*

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**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:—

**Short title.**

**1.** This Act may be cited as the "Parliamentary Contributory Superannuation (Amendment) Act, 1981".

**Commencement.**

**2. (1)** Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

**(2)** Section 3, in its application to Schedule 1 (3), and Schedule 1 (3) shall be deemed to have commenced on 1st January, 1980.

**Amendment of Act No. 53, 1971.**

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

**Savings and transitional provisions.**

**4. (1)** The amendments made by Schedule 1 (2), (4) (b), (5) and (7) (a) do not apply to a former member of the Legislative Assembly or Legislative Council who ceased to be such a member before the date of assent to this Act.

**(2)** Any half-service payments (whether payable before, on or after the date of assent to this Act) under section 22A of the Parliamentary Contributory Superannuation Act, 1971, as in force immediately before that date, shall, on and after that date, be deemed to be a refund of contributions for the purposes of that Act, as amended by this Act.

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*Parliamentary Contributory Superannuation (Amendment).*

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(3) Where a person's right to receive a pension was, immediately before the date of assent to this Act, suspended under section 25 (2) of the Parliamentary Contributory Superannuation Act, 1971, by reason that he held an office or place of profit under the Crown, the person's right to receive a pension shall, on and after that date, be deemed to be suspended under section 25 (2) of that Act, as amended by this Act, while he continues to hold that office or place of profit.

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SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY  
SUPERANNUATION ACT, 1971.

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

Omit " , and half-service payments made under section 22A".

(2) (a) Section 19 (1), (1A), (1B)—

Omit the subsections, 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) in respect of an aggregate period of 7 years or more shall, on his ceasing to be a member and to be entitled to 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  $A \times \frac{B}{C}$ , where—

A is an amount calculated at the rate equal to the aggregate of 48.8 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 7 years, 0.2 per cent of current basic salary, or the rate of 80 per cent of current basic salary, whichever is the lesser;

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*Parliamentary Contributory Superannuation (Amendment).*

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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.

(b) Section 19 (2)—

Omit “or (1A)”.

(3) Section 19A—

Omit the section, insert instead:—

**Variation of certain annual pensions.**

19A. (1) In this section—

“former member” means a person who—

(a) last served as a member of the Legislative Council;  
and

(b) ceased to be such a member on or before 6th  
November, 1978;

“prescribed time” means—

(a) 1st January, 1980; and

(b) any time after 1st January, 1980, at which the  
salary payable 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)  
is varied.

(2) Notwithstanding anything in section 19 or 23, where—

(a) a former member is entitled to an annual pension under  
section 19; or

(b) the widow or widower of a former member is entitled to an  
annual pension under section 23,

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*Parliamentary Contributory Superannuation (Amendment).*

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

the amount of the annual pension payable from the Fund to that former member or to that widow or widower, as the case may be, immediately before a prescribed time is varied at and from that prescribed time in the same manner and by the same percentage as the variation at that prescribed time of the salary payable 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.

(3) The amount of the annual pension payable from the Fund to a person to whom subsection (2) applies may be varied only in accordance with that subsection.

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

Omit “19 (1A) or”.

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

Omit paragraph (a) of the definition, insert instead:—

(a) except as provided in paragraph (b), means—

- (i) in relation to a person who is under the age of 45 years on the date on which he ceased to be a member—not more than 75 per cent of his annual pension entitlement as at that date;
- (ii) in relation to a person who is 45 years of age or over but under the age of 70 years on the date on which he ceased to be a member—not more than 50 per cent of his annual pension entitlement as at that date, together with 1 per cent for every complete year by which his age is less than 70 years on that date; and

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*Parliamentary Contributory Superannuation (Amendment).*

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SCHEDULE 1—*continued.*

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

(iii) in relation to a person who is 70 years of age or over on the date on which he ceased to be a member—not more than 50 per cent of his annual pension entitlement as at that date; and

(c) Section 20 (5)—

Omit “of any refund of contributions and interest thereon made under this Act or the former Act and any half-service payments made under section 22A to ”, insert instead “of any repayment under section 24 by”.

(5) Section 22 (2)—

Omit “10 years”, insert instead “7 years”.

(6) Section 22A—

Omit the section, insert instead:—

**Contributors not entitled to pension.**

22A. (1) In this section—

“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;

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*Parliamentary Contributory Superannuation (Amendment).*

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

“supplementary benefit”, in relation to a person who ceases to be a member, means the amount that is two and one-third times—

- (a) in the case of a person who has been entitled to salary for an aggregate period of less than 7 years—the amount of the refund of contributions in relation to that person; or
- (b) in any other case—the amount that would be the amount of the refund of contributions in relation to that person if the last 7 years during which he was entitled to salary was the only period during which he was entitled to salary.

(2) A person who ceases to be a member after the date of assent to the Parliamentary Contributory Superannuation (Amendment) Act, 1981, 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 Part shall be entitled to a refund of contributions and—

- (a) where he ceases to be a member involuntarily within the meaning of subsection (3)—payment of the supplementary benefit; or
- (b) in any other case—payment of one-half of the supplementary benefit.

(3) For the purposes of subsection (2), a person ceases to be a member involuntarily if—

- (a) notwithstanding anything in this subsection, he has attained the age of 60 years at the time when he ceases to be a member;
- (b) he ceases to be a member by reason of his resignation for reasons which to the trustees appear to be good and sufficient; or

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*Parliamentary Contributory Superannuation (Amendment).*

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

- (c) he ceases to be a member by reason of the termination, either by dissolution or expiry, of a Legislative Assembly and he—
- (i) does not become a candidate at the general election next following that termination 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;
  - (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.

## (4) Where—

- (a) a person ceases to be a member after the date of assent to the Parliamentary Contributory Superannuation (Amendment) Act, 1981, by reason of his death;
- (b) that person is not survived by a widow or widower; and
- (c) no pension is payable under section 23B in respect of a dependent child of that person,

the personal representative of that person shall be entitled to the amount, if any, by which the aggregate of the refund of contributions and payment of the supplementary benefit in relation to that person exceeds the aggregate of any instalments of pension and any other benefit (except a refund of contributions and any interest thereon) paid or payable under this Part in relation to that person.

(5) Notwithstanding any other provision of this section, any payment under this section shall first be applied by the trustees in or towards paying into the Fund the outstanding amount of any repayment under section 24 by the person to whom or in respect of whom that payment is required to be made.



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*Parliamentary Contributory Superannuation (Amendment).*

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

(7) (a) Section 23 (2), (3)—

Omit “8 years” wherever occurring, insert instead “7 years”.

(b) Section 23 (4A)—

Omit “section 24, subsection (2) of section 25 or subsection (1) of section 26”, insert instead “section 25 (2) or 26 (1)”.

(8) Section 23B—

After section 23A, insert:—

**Pension for children.**

23B. (1) In this section—

“child” means a child—

- (a) who has not attained the age of 18 years; or
- (b) who has attained the age of 18 years but has not attained the age of 25 years and who is receiving full-time education from a school, college or university approved by the trustees;

“current basic salary” means—

- (a) in relation to a deceased member or former member who last served as a member in the Legislative Council—the salary payable from time to time 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

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*Parliamentary Contributory Superannuation (Amendment).*

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

- (b) in relation to a deceased member or former member who last served as a member in the Legislative Assembly—the salary payable from time to time 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;

“dependent child of a deceased member or former member”  
means—

- (a) a child of a deceased member or former member;  
or
- (b) a child of a surviving spouse, or any former spouse, of the deceased member or former member,  
being—

- (c) a child who was, in the opinion of the trustees, wholly or substantially dependent on the deceased member immediately before his death or, as the case may be, wholly or substantially dependent on the deceased former member immediately before he last ceased to be a member; or
- (d) a child of the deceased member who was conceived before but born after his death or, as the case may be, a child of the deceased former member who was conceived before but born after he last ceased to be a member.

(2) On the death of—

- (a) a member; or
- (b) a former member who immediately before his death was receiving, or was entitled to receive, a pension under this Part,

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*Parliamentary Contributory Superannuation (Amendment).*

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

there shall be payable from the Fund in respect of each dependent child of the deceased member or former member an annual pension at the rate of—

- (c) where the deceased member or former member is not survived by a widow or widower—10 per cent of current basic salary;
- (d) subject to paragraph (e), where the deceased member or former member is survived by a widow or widower—5 per cent of current basic salary; or
- (e) where the deceased member or former member is survived by a widow or widower but that widow or widower dies—10 per cent of current basic salary.

(3) A pension payable under this section in respect of a dependent child shall cease on his death or on the day he ceases to be a child.

(4) For the purposes of subsection (2), a former member shall be deemed to have been entitled to receive a pension under this Part at any time if he would, but for the provisions of section 25 (2) or 26 (1), have been entitled to receive a pension under this Part at that time.

(5) A pension payable under this section in respect of a dependent child of a deceased member or former member continues to be payable notwithstanding that the surviving widow or widower, if any, of the deceased member or former member remarries.

(6) A pension payable under this section in respect of a dependent child of a deceased member or former member shall be paid to—

- (a) the surviving widow or widower, if any, of the deceased member or former member;
- (b) the guardian of the dependent child;

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY  
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(c) the dependent child; or

(d) some other person,

as the trustees in their discretion direct.

(7) A pension is not payable under this section in respect of a dependent child of a deceased member or former member if—

(a) in the case of a deceased member—he died before the date of assent to the Parliamentary Contributory Superannuation (Amendment) Act, 1981; or

(b) in the case of a deceased former member—he last ceased to be a member before that date.

(9) Section 24—

Omit the section, insert instead:—

**Repayments where person again becomes member.**

24. Where a person has received under this Act or the former Act an amount, being a refund of contributions (with or without interest) or a payment of the whole or a part of a supplementary benefit under section 22A, or both, and that person again becomes a member, any part of the period during which he was entitled to salary 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 under this Part 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.

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*Parliamentary Contributory Superannuation (Amendment).*

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

## (10) Section 25 (2), (3)—

Omit the subsections, insert instead:—

(2) If a person 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) becomes a member (not being a person to whom subsection (1) applies),

the right of that person to receive a pension under this Part shall be suspended while that person continues to be such a member.

## (11) Section 27 (1), (1A)—

Omit the subsections, insert instead:—

(1) Where the aggregate of instalments of pension and any other benefit paid or payable under this Part in respect of any member who ceased to be a member after the date of assent to the Parliamentary Contributory Superannuation (Amendment) Act, 1981, is less than the amount to which his personal representative would have been entitled under section 22A (4) had he ceased to be a member in the circumstances specified in section 22A (4), the difference shall, as soon as practicable after the death of the member and the member's

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*Parliamentary Contributory Superannuation (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PARLIAMENTARY CONTRIBUTORY  
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widow or widower (if any) and after any pensions under section 23B in respect of the dependent children of the member cease to be payable, be paid out of the Fund to such person or persons as the trustees direct.

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