

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 2 April 1992

(Minister for Finance)

A BILL

FOR

An Act to amend certain Acts because of the enactment of the *Superannuation Act 1990*, the *Superannuation Benefits (Supervisory Mechanisms) Act 1990* and the *Superannuation Legislation Amendment Act 1990*, and for related purposes

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 1992*.

5 **Commencement**

2.(1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.

(2) Section 3 is taken to have commenced on 1 July 1990.

Amendments of various Acts

3. The Acts specified in the Schedule are amended as set out in the Schedule.

Transitional provision for the Australian Broadcasting Corporation Act

4.(1) If, on or after 1 July 1990 and before the day on which this section commences, a member made an election under the rules made under subsection 62(2) of the *Australian Broadcasting Corporation Act 1983*, then, for the purposes of the rules, on and after the day of the election, the person is taken to be an eligible employee for the purposes of the *Superannuation Act 1976*. 5
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(2) In this section:

“member” means a member of the superannuation scheme established by deed under the *Superannuation Act 1990*.

Transitional provisions for the Australian Federal Police Act

5.(1) If: 15

(a) a person was appointed under section 25, 26 or 26B of the *Australian Federal Police Act 1979* on or after 1 July 1990 and before the day on which this section commences; and

(b) on and after appointment the person was taken to be a temporary employee employed under a contract for the purposes of section 13 of the *Superannuation Act 1976*; and 20

(c) on or after 1 July 1990 the person became an eligible employee for the purposes of the *Superannuation Act 1976*; and

(d) the person is not a person referred to in paragraph 39E(2)(a) or (b) of the *Australian Federal Police Act 1979*; 25

then, on and after the day on which this section commences, the person is to continue to be an eligible employee for the purposes of the *Superannuation Act 1976*.

(2) If:

(a) a person was appointed under section 25, 26 or 26B of the *Australian Federal Police Act 1979* on or after 1 July 1990 and before the day on which this section commences; and 30

(b) on and after appointment the person was taken to be a temporary employee employed under a contract for the purposes of the *Superannuation Act 1990*; and 35

(c) on or after 1 July 1990 the person became a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and

(d) the person is a person referred to in paragraph 39E(2)(a) or (b) of the *Australian Federal Police Act 1979*; 40

then, on and after the day on which this section commences, the person is to continue to be a member of that superannuation scheme.

Transitional provisions for the Members of Parliament (Staff) Act

6.(1) If:

- 5 (a) a relevant agreement within the meaning of section 8 of the
Members of Parliament (Staff) Act 1984, entered into on or
after 1 July 1990 and before the day on which this section
commences, provides that the *Superannuation Act 1990* applies
10 in relation to a relevant person as if the person were a temporary
employee within the meaning of that Act; and
- (b) the relevant person was engaged as a consultant under the
relevant agreement on or after 1 July 1990; and
- (c) the relevant person is a person to whom paragraph 8(3A)(a) or
15 (b) of the *Members of Parliament (Staff) Act 1984* applies;
the relevant agreement has effect according to its terms for the purposes
of subsection 8(3C) of that Act.

(2) If:

- 20 (a) a relevant agreement within the meaning of section 8 of the
Members of Parliament (Staff) Act 1984, entered into on or
after 1 July 1990 and before the day on which this section
commences, provides that the *Superannuation Act 1976* applies
in relation to a relevant person as if the person were a temporary
employee within the meaning of section 13 of that Act; and
- 25 (b) the relevant person was engaged as a consultant under the
relevant agreement on or after 1 July 1990; and
- (c) the relevant person is not a person to whom paragraph 8(3A)(a)
or (b) of the *Members of Parliament (Staff) Act 1984* applies;
the relevant agreement has effect according to its terms for the purposes
of subsection 8(3A) of that Act.

30 **(3) If:**

- (a) an agreement under section 13 of the *Members of Parliament
(Staff) Act 1984*, entered into on or after 1 July 1990 and before
the day on which this section commences, provides that the
Superannuation Act 1990 applies in relation to a relevant person
35 as if the person were a temporary employee within the meaning
of that Act; and
- (b) the relevant person was employed under that agreement on or
after 1 July 1990; and
- 40 (c) the relevant person is a person to whom paragraph 15(3A)(a)
or (b) of the *Members of Parliament (Staff) Act 1984* applies;
the agreement has effect according to its terms for the purposes of
subsection 15(3C) of that Act.

(4) If:

- (a) an agreement under section 13 of the *Members of Parliament (Staff) Act 1984*, entered into on or after 1 July 1990 and before the day on which this section commences, provides that the *Superannuation Act 1976* applies in relation to a relevant person as if the person were a temporary employee within the meaning of section 11 of that Act; and 5
- (b) the relevant person was employed under that agreement on or after 1 July 1990; and
- (c) the relevant person is not a person to whom paragraph 15(3A)(a) or (b) of the *Members of Parliament (Staff) Act 1984* applies; 10

the agreement has effect according to its terms for the purposes of subsection 15(3A) of that Act.

(5) If:

- (a) an agreement under section 20 of the *Members of Parliament (Staff) Act 1984*, entered into on or after 1 July 1990 and before the day on which this section commences, provides that the *Superannuation Act 1990* applies in relation to a relevant person as if the person were a temporary employee within the meaning of that Act; and 15
- (b) the relevant person was employed under that agreement on or after 1 July 1990; and
- (c) the relevant person is a person to whom paragraph 22(3A)(a) or (b) of the *Members of Parliament (Staff) Act 1984* applies; 20

the agreement has effect according to its terms for the purposes of subsection 22(3C) of that Act.

(6) If:

- (a) an agreement under section 20 of the *Members of Parliament (Staff) Act 1984*, entered into on or after 1 July 1990 and before the day on which this section commences, provides that the *Superannuation Act 1976* applies in relation to a relevant person as if the person were a temporary employee within the meaning of section 11 of that Act; and 30
- (b) the relevant person was employed under that agreement on or after 1 July 1990; and 35
- (c) the relevant person is not a person to whom paragraph 22(3A)(a) or (b) of the *Members of Parliament (Staff) Act 1984* applies; 40

the agreement has effect according to its terms for the purposes of subsection 22(3A) of that Act.

Transitional provisions for the Public Service Act

7.(1) If:

- (a) a determination made under subsection 38(3) of the *Public*

Service Act 1922, on or after 1 July 1990 and before the day on which this section commences, provides that the *Superannuation Act 1976* applies in relation to a relevant person; and

5 (b) the relevant person was appointed to an office of Secretary under a fixed-term appointment within the meaning of section 37 of the *Public Service Act 1922* on or after 1 July 1990; and

10 (c) the relevant person is not a person to whom paragraph 38(4A)(a) or (b) of that Act applies;

the determination has effect according to its terms for the purposes of subsection 38(4A) of that Act.

(2) If:

15 (a) a determination made under subsection 38(3) of the *Public Service Act 1922*, on or after 1 July 1990 and before the day on which this section commences, provides that the *Superannuation Act 1990* applies in relation to a relevant person; and

20 (b) the relevant person was appointed to an office of Secretary under a fixed-term appointment within the meaning of section 37 of the *Public Service Act 1922* on or after 1 July 1990; and

(c) the relevant person is a person to whom paragraph 38(4A)(a) or (b) of that Act applies;

25 the determination has effect according to its terms for the purposes of subsection 38(4C) of that Act.

(3) If:

30 (a) a determination made under subsection 45(3) of the *Public Service Act 1922*, on or after 1 July 1990 and before the day on which this section commences, provides that the *Superannuation Act 1976* applies in relation to a relevant person; and

35 (b) the relevant person was given a fixed-term appointment, within the meaning of section 44 of the *Public Service Act 1922*, as a Senior Executive Service officer on or after 1 July 1990; and

(c) the relevant person is not a person to whom paragraph 45(4A)(a) or (b) of that Act applies;

the determination has effect according to its terms for the purposes of subsection 45(4A) of that Act.

40 (4) If:

(a) a determination made under subsection 45(3) of the *Public Service Act 1922*, on or after 1 July 1990 and before the day on which this section commences, provides that the

6 *Superannuation Legislation (Consequential Amendments and
Transitional Provisions) No. , 1992*

Superannuation Act 1990 applies in relation to a relevant person;
and

- (b) the relevant person was given a fixed-term appointment, within the meaning of section 44 of the *Public Service Act 1922*, as a Senior Executive Service officer on or after 1 July 1990; and
- (c) the relevant person is a person to whom paragraph 45(4A)(a) or (b) of that Act applies;

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the determination has effect according to its terms for the purposes of subsection 45(4C) of that Act.

SCHEDULE

Section 3

CONSEQUENTIAL AMENDMENTS OF ACTS

Administrative Appeals Tribunal Act 1975

Subsection 13(9):

Omit the subsection, substitute:

“(9) The Governor-General may, with the consent of a member who is:

- (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or
- (b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*;

retire the member from office on the ground of incapacity.”.

Section 13:

Add at the end:

“(12) In spite of anything contained in this section, a member who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(13) In spite of anything contained in this section, a member who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

Subsections 16(2) and (3):

Omit the subsections, substitute:

“(2) The *Judges' Pensions Act 1968* does not apply in relation to a presidential member if:

- (a) immediately before being appointed as a presidential member, he or she was:

SCHEDULE—continued

- (i) an eligible employee for the purposes of the *Superannuation Act 1976*; or
 - (ii) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) he or she does not make an election under subsection (3).

“(3) A presidential member may elect to cease to be:

- (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or
- (b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*.

“(3A) The election must be made:

- (a) within 3 months of the presidential member’s appointment; and
- (b) by notice in writing to the Minister.

“(3B) If a presidential member makes the election:

- (a) the *Judges’ Pensions Act 1968* applies in relation to him or her and is taken to have so applied immediately after he or she was appointed as a presidential member; and
- (b) he or she is taken to have ceased to be:
 - (i) an eligible employee for the purposes of the *Superannuation Act 1976*; or
 - (ii) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*;

immediately before being appointed as a presidential member.”.

After subsection 16(4):

Insert:

“(4A) Subject to subsection (4B), if:

- (a) a presidential member makes an election under subsection (3); and
- (b) he or she would, but for this subsection, be entitled to benefits under the *Superannuation Act 1990*;

that Act applies in relation to the presidential member as if he or she were not entitled to those benefits.

“(4B) Subsection (4A) does not affect the presidential member’s entitlement (if any) to the part of those benefits that consists of his or her accumulated member contributions and accumulated employer contributions within the meaning of the *Superannuation Act 1990*.”.

SCHEDULE—continued

Subsection 24K(3):

Omit the subsection, substitute:

“(3) If the Registrar is:

- (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or
- (b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*;

the Governor-General may, with the Registrar’s consent, retire the Registrar from office on the ground of incapacity.

“(4) In spite of anything contained in this section, a Registrar who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(5) In spite of anything contained in this section, a Registrar who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”

Anti-Dumping Authority Act 1988

Subsection 20(7):

Omit the subsection.

After section 20:

Insert:

Removal taken to be retirement on ground of invalidity

“20A.(1) If the member:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) is removed from office under section 20 on the ground of physical or mental incapacity;

SCHEDULE—continued

for the purposes of that Act, the member is taken to have been retired on the ground of invalidity within the meaning of Part IVA of that Act on the day on which the suspension from office took effect.

“(2) In spite of subsection (1), section 54C of the *Superannuation Act 1976* applies in relation to the member.

“(3) If the member:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is removed from office under section 20 on the ground of physical or mental incapacity;

for the purposes of that Act, the member is taken to have been retired on the ground of invalidity within the meaning of that Act on the day on which the suspension from office took effect.

“(4) In spite of subsection (3), section 13 of the *Superannuation Act 1990* applies in relation to the member.

Retirement on ground of invalidity under the Superannuation Acts

“20B.(1) In spite of anything contained in sections 19 and 20, a member who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(2) In spite of anything contained in sections 19 and 20, a member who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

Audit Act 1901

After section 7:

Insert:

SCHEDULE—continued

Removal taken to be retirement on ground of invalidity

“7A.(1) If an Auditor-General is removed from office under section 7 of this Act following his or her suspension from office on the ground of physical or mental incapacity, then, for the purposes of the *Superannuation Act 1976*, he or she is taken to have been retired on the ground of invalidity within the meaning of Part IVA of that Act.

“(2) In spite of subsection (1), section 54C of the *Superannuation Act 1976* applies in relation to the Auditor-General.

“(3) If an Auditor-General is removed from office under section 7 of this Act following his or her suspension from office on the ground of physical or mental incapacity, then, for the purposes of the *Superannuation Act 1990*, he or she is taken to have been retired on the ground of invalidity within the meaning of that Act.

“(4) In spite of subsection (3), section 13 of the *Superannuation Act 1990* applies in relation to the Auditor-General.

Retirement on ground of invalidity under the Superannuation Acts

“7B.(1) In spite of anything contained in section 7, an Auditor-General who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(2) In spite of anything contained in section 7, an Auditor-General who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”

Section 9:

Repeal the section.

SCHEDULE—continued

Australian Broadcasting Corporation Act 1983

After subsection 62(2):

Insert:

“(2A) The rules:

- (a) may make provision for the purpose of:
 - (i) enabling a person entitled to the payment of a lump sum under rules made under subsection (1) to elect to have paid, instead of that sum, benefits, calculated in such manner as is provided for in the rules, being pension benefits similar to pension benefits payable under the *Superannuation Act 1990*; and
 - (ii) enabling the payment of such a pension benefit to the person entitled to it in association with any benefit payable to the person under that Act and as if it were a benefit payable under that Act; and
- (b) may apply the provisions of that Act (other than the provisions of Part 7 of the Rules) subject to such modifications and adaptations as are prescribed by the rules, in relation to such a benefit; and
- (c) may make such other provision, not inconsistent with this Division, as is necessary or convenient to be made for carrying out or giving effect to the purpose specified in paragraph (a).

“(2B) In subsection (2A):

‘Rules’ has the same meaning as in the *Superannuation Act 1990*.”

After subsection 62(3):

Insert:

“(3A) The provision that may be made by the rules pursuant to subsection (2A):

- (a) is not to enable an election referred to in that subsection to be made by a person:
 - (i) who did not become, upon retirement under section 59, entitled to a pension under the *Superannuation Act 1990*; or
 - (ii) who has made an election under that Act as a result of which he or she has become entitled to receive, as a lump sum benefit, all the benefits to which, but for the election, he or she would be entitled under that Act because of his or her retirement under section 59; and
- (b) is to include provision for an election referred to in subsection (2A) to become void if the person who made the election

SCHEDULE—continued

subsequently makes an election under that Act as a result of which he or she becomes entitled to receive, as a lump sum benefit, all the benefits to which, but for that last-mentioned election, he or she would be entitled under that Act because of his or her retirement under section 59.”.

After paragraph 62(4)(a):

Insert:

“(ab) in the case of a payment of a pension benefit that is payable as if it were a pension benefit payable under the *Superannuation Act 1990*—out of the Consolidated Revenue Fund, in accordance with the appropriation of that Fund made by that Act for the payments of benefits under that Act, as if it were a payment of a pension benefit under that Act; or”.

Paragraph 62(4)(b):

After “(a)” insert “or (ab)”.

Subsection 62(5):

Omit “subsection (2)”, substitute “subsections (2) and (2A)”.

Subsection 62(6):

After “(2)(a)” insert “or (2A)(a)”.

Subsection 66B(6):

After “*Superannuation Act 1976*” insert “or the *Superannuation Act 1990*”.

Australian Federal Police Act 1979

Subsection 4(1) (definition of “eligible employee”):

Omit “*Superannuation Act*”, substitute “*Superannuation Act 1976*”.

Subsection 4(1) (definition of “*Superannuation Act*”):

After “*Superannuation Act 1976*” insert “or the *Superannuation Act 1990*”.

Section 38B:

Add at the end:

“(3) In spite of anything contained in this section, a member or a staff member who:

(a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and

SCHEDULE—continued

(b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(4) In spite of anything contained in this section, a member or a staff member who:

(a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and

(b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

Section 39E:

Repeal the section, substitute:

Members and staff members to be treated as temporary employees employed under contract

“39E.(1) A person appointed under section 25, 26 or 26B, before 1 July 1990, is taken, for the purposes of section 13 of the *Superannuation Act 1976*, to be a temporary employee employed under a contract.

“(2) A person appointed under section 25, 26 or 26B after 30 June 1990 is taken to be a temporary employee employed under a contract for the purposes of section 13 of the *Superannuation Act 1976* if:

(a) immediately before the person was appointed:

(i) invalidity pension was, or but for a suspension of payment would have been, payable to him or her under the *Superannuation Act 1976*; or

(ii) deferred benefits were applicable to him or her under the *Superannuation Act 1976* or the *Superannuation Act 1922*; or

(iii) a pension of a kind mentioned in section 64A or 65 of the *Superannuation Act 1922* as in force immediately before the repeal of that section was, or but for a suspension of payment would have been, payable to him or her; or

(b) the person became, by virtue of his or her being so appointed, a re-employed former contributor with preserved rights within the meaning of the *Superannuation Act 1976*.

SCHEDULE—continued

“(3) A person appointed under section 25, 26 or 26B is taken to be a temporary employee employed under a contract for the purposes of the *Superannuation Act 1990* if the person:

- (a) is appointed after 30 June 1990; and
- (b) is not a person to whom subsection (2) applies.”.

Section 41 (paragraph (a) of the definition of “superannuation authority”):

Omit the paragraph, substitute:

“(a) in relation to the superannuation scheme established by the *Superannuation Act 1976*:

- (i) for those matters under that Act for which the Commonwealth Superannuation Board of Trustees No. 2 is responsible—that Board; and
- (ii) for any other matters under that Act—the Commissioner for Superannuation; or

(ab) in relation to the superannuation scheme established by deed under the *Superannuation Act 1990*—the Commonwealth Superannuation Board of Trustees No. 1; or”.

Australian National Railways Commission Act 1983

Section 32:

Add at the end:

“(5) In spite of anything contained in this section, a Commissioner who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(6) In spite of anything contained in this section, a Commissioner who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth

SCHEDULE—continued

Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

Australian Securities Commission Act 1989

Subsection 5(1) (definition of “superannuation benefits”):

Add at the end:

“; and (c) benefits similar to the benefits provided under the *Superannuation Act 1990*.”.

Subsection 111(2):

Omit the subsection, substitute:

“(2) The Governor-General may, with the consent of a full-time member who is:

- (a) an eligible employee; or
- (b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*;

retire the member from office on the ground of incapacity.

“(3) In spite of anything contained in this section, a member who:

- (a) is an eligible employee; and
- (b) has not reached his or her maximum retiring age within the meaning of the *Superannuation Act 1976*;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(4) In spite of anything contained in this section, a member who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

Subsection 114(1):

After “employee” insert “or a member of the superannuation scheme established by deed under the *Superannuation Act 1990*”.

SCHEDULE—continued

Subsection 114(3):

Omit the subsection, substitute:

“(3) The Minister must not make a determination under subsection (1), or vary or revoke a determination so made, except in accordance with arrangements approved by the Minister under the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*.”.

Automotive Industry Authority Act 1984

Subsection 21(7):

Omit the subsection.

After section 21:

Insert:

Removal taken to be retirement on ground of invalidity

“21A.(1) If the member:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) is removed from office under section 21 on the ground of physical or mental incapacity;

for the purposes of that Act, the member is taken to have been retired on the ground of invalidity within the meaning of Part IVA of that Act on the day on which the suspension from office took effect.

“(2) In spite of subsection (1), section 54C of the *Superannuation Act 1976* applies in relation to the member.

“(3) If the member:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is removed from office under section 21 on the ground of physical or mental incapacity;

for the purposes of that Act, the member is taken to have been retired on the ground of invalidity within the meaning of that Act on the day on which the suspension from office took effect.

“(4) In spite of subsection (3), section 13 of the *Superannuation Act 1990* applies in relation to the member.

Retirement on ground of invalidity under the Superannuation Acts

“21B.(1) In spite of anything contained in sections 20 and 21, a member who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and

SCHEDULE—continued

- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(2) In spite of anything contained in sections 20 and 21, a member who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
(b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

Commonwealth Legal Aid Act 1977

Paragraph 21(2)(d):

Omit the paragraph, substitute:

- “(d) if the officer, immediately before he or she becomes engaged in that employment:
- (i) is an eligible employee for the purposes of the *Superannuation Act 1976*; or
- (ii) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*;

the officer must be exempted from liability to contribute for superannuation benefits otherwise than under the *Superannuation Act 1976* or the *Superannuation Act 1990* in relation to that employment unless he or she elects by notice in writing, within 3 months after becoming employed, to contribute for those other benefits.”.

Paragraph 21(3)(a):

- (a) After “*Superannuation Act 1976*” insert “or under the *Superannuation Act 1990*”.
- (b) Omit “that Act”, substitute “the *Superannuation Act 1976* or the *Superannuation Act 1990*”.

SCHEDULE—continued

Crimes (Superannuation Benefits) Act 1989

Section 2 (definition of “Superannuation Act”):

Omit the definition, substitute:

“‘Superannuation Act’ means:

- (a) the *Superannuation Act 1976*; or
- (b) the *Superannuation Act 1990*.”

Section 2 (paragraph (a) of the definition of “superannuation authority”):

Omit the paragraph, substitute:

- “(a) in relation to the superannuation scheme established by the *Superannuation Act 1976*:
- (i) for those matters under that Act for which the Commonwealth Superannuation Board of Trustees No. 2 is responsible—that Board; and
 - (ii) for any other matters under that Act—the Commissioner for Superannuation; or
- (ab) in relation to the superannuation scheme established by deed under the *Superannuation Act 1990*—the Commonwealth Superannuation Board of Trustees No. 1; or”.

Director of Public Prosecutions Act 1983

Section 23:

Add at the end:

“(3) In spite of anything contained in this section, if the Director or Associate Director:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

he or she is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(4) In spite of anything contained in this section, if the Director or Associate Director:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

SCHEDULE—continued

he or she is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

Family Law Act 1975

Subsection 38K(3):

Omit the subsection, substitute:

“(3) The Governor-General may, with the consent of the Chief Executive Officer who is:

- (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or
- (b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*;

retire the Chief Executive Officer from office on the ground of incapacity.

“(4) In spite of anything contained in this section, if the Chief Executive Officer:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

he or she is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(5) In spite of anything contained in this section, if the Chief Executive Officer:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

he or she is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

Federal Court of Australia Act 1976

Subsection 18K(3):

Omit the subsection, substitute:

“(3) The Governor-General may, with the consent of a Registrar who is:

SCHEDULE—continued

- (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or
- (b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*;

retire the Registrar from office on the ground of incapacity.

- “(4) In spite of anything contained in this section, if the Registrar:
- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age within the meaning of that Act;

he or she is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

- “(5) In spite of anything contained in this section, if the Registrar:
- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
 - (b) is under 60 years of age;

he or she is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”

Governor-General Act 1974

Section 9:

Repeal the section.

Health Insurance Commission Act 1973

Subsection 28A(4):

Omit “or the *Superannuation Act 1976*”, substitute “, the *Superannuation Act 1976* or the *Superannuation Act 1990*”.

Section 31:

Repeal the section.

Industrial Relations Act 1988

Subsections 22(1) and (2):

Omit the subsections, substitute:

“(1) The *Judges’ Pensions Act 1968* does not apply in relation to a Presidential Member if:

SCHEDULE—continued

- (a) immediately before being appointed as a Presidential Member, he or she was:
 - (i) an eligible employee for the purposes of the *Superannuation Act 1976*; or
 - (ii) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) he or she does not make an election under subsection (2).

“(2) A Presidential Member may elect to cease to be:

- (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or
- (b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*.

“(2A) The election must be made:

- (a) within 3 months of the Presidential Member’s appointment; and
- (b) by notice in writing to the Minister.

“(2B) If a Presidential Member makes the election:

- (a) the *Judges’ Pensions Act 1968* applies in relation to him or her and is taken to have so applied immediately after he or she was appointed as a Presidential Member; and
- (b) he or she is taken to have ceased to be:
 - (i) an eligible employee for the purposes of the *Superannuation Act 1976*; or
 - (ii) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*;

immediately before being appointed as a Presidential Member.”.

Section 22:

Add at the end:

“(4) Subject to subsection (5), if:

- (a) a Presidential Member makes an election under subsection (2); and
- (b) he or she would, but for this subsection, be entitled to benefits under the *Superannuation Act 1990*;

that Act applies in relation to the Presidential Member as if he or she were not entitled to those benefits.

“(5) Subsection (4) does not affect the Presidential Member’s entitlement (if any) to the part of those benefits that consists of his or her accumulated member contributions and accumulated employer contributions within the meaning of the *Superannuation Act 1990*.”.

SCHEDULE—continued

Subsection 121(2) (paragraph (a) of the definition of “relevant law”):

Omit “or the *Superannuation Act 1976*”, substitute “, the *Superannuation Act 1976* or the *Superannuation Act 1990*”.

Industry Commission Act 1989

Subsection 38(6):

Omit the subsection.

After section 38:

Insert:

Removal taken to be retirement on ground of invalidity

“38A.(1) If:

- (a) a Commissioner or Associate Commissioner is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) is removed from office under section 38 on the ground of physical or mental incapacity;

for the purposes of that Act, he or she is taken to have been retired on the ground of invalidity within the meaning of Part IVA of that Act on the day on which he or she was suspended from office.

“(2) In spite of subsection (1), section 54C of the *Superannuation Act 1976* applies in relation to the Commissioner or Associate Commissioner.

“(3) If a Commissioner or Associate Commissioner:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is removed from office under section 38 on the ground of physical or mental incapacity;

for the purposes of that Act, he or she is taken to have been retired on the ground of invalidity within the meaning of that Act on the day on which he or she was suspended from office.

“(4) In spite of subsection (3), section 13 of the *Superannuation Act 1990* applies in relation to the Commissioner or Associate Commissioner.

Retirement on ground of invalidity under the Superannuation Acts

“38B.(1) In spite of anything contained in sections 37 and 38, a Commissioner or Associate Commissioner who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and

SCHEDULE—continued

- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(2) In spite of anything contained in sections 37 and 38, a Commissioner or Associate Commissioner who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
(b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

Law Officers Act 1964

Subsections 14(1) and (2):

Omit the subsections, substitute:

“(1) The *Judges’ Pensions Act 1968* does not apply in relation to the Solicitor-General if:

- (a) immediately before being appointed as the Solicitor-General, he or she was:
(i) an eligible employee for the purposes of the *Superannuation Act 1976*; or
(ii) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
(b) he or she does not make an election under subsection (2).

“(2) The Solicitor-General may elect to cease to be:

- (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or
(b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*.

“(2A) The election must be made:

- (a) within 3 months of the Solicitor-General’s appointment; and
(b) by notice in writing to the Minister.

“(2B) If the Solicitor-General makes the election:

- (a) the *Judges’ Pensions Act 1968* applies in relation to him or her

SCHEDULE—continued

and is taken to have so applied immediately after he or she was appointed as the Solicitor-General; and

- (b) he or she is taken to have ceased to be:
- (i) an eligible employee for the purposes of the *Superannuation Act 1976*; or
 - (ii) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*;
- immediately before being appointed as the Solicitor-General.”.

Section 14:

Add at the end:

“(4) Subject to subsection (5), if:

- (a) the Solicitor-General makes an election under subsection (2); and
- (b) he or she would, but for this subsection, be entitled to benefits under the *Superannuation Act 1990*;

that Act applies in relation to the Solicitor-General as if he or she were not entitled to those benefits.

“(5) Subsection (4) does not affect the Solicitor-General’s entitlement (if any) to the part of those benefits that consists of his or her accumulated member contributions and accumulated employer contributions within the meaning of the *Superannuation Act 1990*.”.

Members of Parliament (Staff) Act 1984

Section 3 (definition of “Superannuation Act”):

Omit the definition.

Section 3 (paragraph (a) of the definition of “pensioner”):

Before the paragraph insert:

“(aa) a person to whom an invalidity pension, within the meaning of the *Superannuation Act 1990* is payable; or”.

Section 3 (paragraph (a) of the definition of “pensioner”):

Omit “the Superannuation Act”, substitute “the *Superannuation Act 1976*”.

Subsection 8(1) (definition of “prescribed modification”):

Omit the definition.

Subsection 8(1) (paragraph (a) of the definition of “relevant person”):

Omit “Superannuation Act”, substitute “*Superannuation Act 1976*”.

SCHEDULE—continued

Subsection 8(1) (paragraph (a) of the definition of “relevant person”):

After the paragraph insert:

“(ab) a person who, immediately before being engaged under this Part, was a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; or”.

Subsection 8(3):

Omit “*Superannuation Act*” (last occurring), substitute “*Superannuation Act 1976*”.

Paragraph 8(3)(a):

- (a) After “that” (first occurring), insert “, if the person was engaged before 1 July 1990.”.
- (b) Omit “*Superannuation Act*”, substitute “*Superannuation Act 1976*”.
- (c) Omit “or”.

Paragraph 8(3)(b):

Omit the paragraph.

After subsection 8(3):

Insert:

“(3A) Without limiting subsection (2), a relevant agreement for the engagement of a relevant person after 30 June 1990 as a consultant may provide that the *Superannuation Act 1976* applies in relation to the person as if the person were a temporary employee within the meaning of section 13 of that Act if:

- (a) immediately before the person was so engaged, deferred benefits were applicable to him or her under that Act or the *Superannuation Act 1922*; or
- (b) the person became, by virtue of his or her being so engaged, a re-employed former contributor with preserved rights within the meaning of the *Superannuation Act 1976*.

“(3B) Where a relevant agreement so provides, the *Superannuation Act 1976* applies in relation to the person in accordance with the agreement.

“(3C) Without limiting subsection (2), a relevant agreement for the engagement of a relevant person as a consultant may provide that the *Superannuation Act 1990* applies in relation to the person as if the person were a temporary employee within the meaning of that Act if the relevant person:

- (a) is engaged after 30 June 1990; and

SCHEDULE—continued

(b) is not a person to whom paragraph (3A)(a) or (b) applies.

“(3D) Where a relevant agreement so provides, the *Superannuation Act 1990* applies in relation to the person in accordance with the agreement.”.

Subsection 8(4):

Omit “Superannuation Act” (wherever occurring), substitute “*Superannuation Act 1976*”.

Paragraph 8(4)(a):

After “(3)” insert “or (3A)”.

Paragraph 8(4)(b):

After “(3)” insert “or (3B)”.

After subsection 8(4):

Insert:

“(4A) The *Superannuation Act 1990* applies in relation to a relevant person if the person makes a declaration and election under subsection 244(1) of the *Superannuation Act 1976*.

“(4B) If the relevant person revokes, under section 247 of the *Superannuation Act 1976*, the declaration and election made under subsection 244(1) of that Act, subsection (4) applies in relation to the person as if he or she had not made the declaration and election.

“(4C) Subject to subsection (4A), in spite of anything in the *Superannuation Act 1990* or any other Act, the *Superannuation Act 1990*:

- (a) applies in relation to a relevant person engaged as a consultant under this Part only if the application of that Act is expressly provided for in the agreement for the engagement of the person; and
- (b) applies in relation to such a person only as provided by subsection (3D).”.

Subsection 15(1) (definition of “prescribed modification”):

Omit the definition.

Subsection 15(1) (paragraph (a) of the definition of “relevant person”):

Omit “Superannuation Act”, substitute “*Superannuation Act 1976*”.

Subsection 15(1) (paragraph (a) of the definition of “relevant person”):

After the paragraph insert:

“(ab) a person who, immediately before being employed under this

SCHEDULE—continued

Part, was a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; or”.

Subsection 15(3):

Omit “*Superannuation Act*” (last occurring), substitute “*Superannuation Act 1976*”.

Paragraph 15(3)(a):

- (a) After “that” (first occurring), insert “, if the person was employed before 1 July 1990,”.
- (b) Omit “*Superannuation Act*”, substitute “*Superannuation Act 1976*”.
- (c) Omit “or”

Paragraph 15(3)(b):

Omit the paragraph.

After subsection 15(3):

Insert:

“(3A) Without limiting subsection (2), an agreement, under section 13, for the employment of a relevant person after 30 June 1990 may provide that the *Superannuation Act 1976* applies in relation to the person as if the person were a temporary employee within the meaning of section 11 of that Act if:

- (a) immediately before the person was so employed, deferred benefits were applicable to him or her under that Act or the *Superannuation Act 1922*; or
- (b) the person became, by virtue of his or her being so employed, a re-employed former contributor with preserved rights within the meaning of the *Superannuation Act 1976*.

“(3B) Where an agreement so provides, the *Superannuation Act 1976* applies in relation to the person in accordance with the agreement.

“(3C) Without limiting subsection (2), an agreement, under section 13, for the employment of a relevant person may provide that the *Superannuation Act 1990* applies in relation to the person as if the person were a temporary employee within the meaning of that Act if the relevant person:

- (a) is engaged after 30 June 1990; and
- (b) is not a person to whom paragraph (3A)(a) or (b) applies.

“(3D) Where an agreement so provides, the *Superannuation Act 1990* applies in relation to the person in accordance with the agreement.”.

SCHEDULE—continued

Subsection 15(4):

Omit “Superannuation Act” (wherever occurring), substitute “*Superannuation Act 1976*”.

Paragraph 15(4)(a):

After “(3)” insert “or (3A)”.

Paragraph 15(4)(b):

After “(3)” insert “or (3B)”.

After subsection 15(4):

Insert:

“(4A) The *Superannuation Act 1990* applies in relation to a relevant person if the person makes a declaration and election under subsection 244(1) of the *Superannuation Act 1976*.

“(4B) If the relevant person revokes, under section 247 of the *Superannuation Act 1976*, the declaration and election made under subsection 244(1) of that Act, subsection (4) applies in relation to the person as if he or she had not made the declaration and election.

“(4C) Subject to subsection (4A), in spite of anything in the *Superannuation Act 1990* or any other Act, the *Superannuation Act 1990*:

- (a) applies in relation to a relevant person employed under this Part only if the application of that Act is expressly provided for in the agreement for the employment of the person; and
- (b) applies in relation to such a person only as provided by subsection (3D).”.

Subsection 22(1) (definition of “prescribed modification”):

Omit the definition.

Subsection 22(1) (paragraph (a) of the definition of “relevant person”):

Omit “Superannuation Act”, substitute “*Superannuation Act 1976*”.

Subsection 22(1) (paragraph (a) of the definition of “relevant person”):

After the paragraph insert:

“(ab) a person who, immediately before being employed under this Part, was a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; or”.

Subsection 22(3):

Omit “Superannuation Act” (last occurring), substitute “*Superannuation Act 1976*”.

SCHEDULE—continued

Paragraph 22(3)(a):

- (a) After “that” (first occurring), insert “, if the person was employed before 1 July 1990,”.
- (b) Omit “Superannuation Act”, substitute “*Superannuation Act 1976*”.
- (c) Omit “or”.

Paragraph 22(3)(b):

Omit the paragraph.

After subsection 22(3):

Insert:

“(3A) Without limiting subsection (2), an agreement, under section 20, for the employment of a relevant person after 30 June 1990 may provide that the *Superannuation Act 1976* applies in relation to the person as if the person were a temporary employee within the meaning of section 11 of that Act if:

- (a) immediately before the person was so employed, deferred benefits were applicable to him or her under that Act or the *Superannuation Act 1922*; or
- (b) the person became, by virtue of his or her being so employed, a re-employed former contributor with preserved rights within the meaning of the *Superannuation Act 1976*.

“(3B) Where an agreement so provides, the *Superannuation Act 1976* applies in relation to the person in accordance with the agreement.

“(3C) Without limiting subsection (2), an agreement, under section 20, for the employment of a relevant person may provide that the *Superannuation Act 1990* applies in relation to the person as if the person were a temporary employee within the meaning of that Act if the relevant person:

- (a) is engaged after 30 June 1990; and
- (b) is not a person to whom paragraph (3A)(a) or (b) applies.

“(3D) Where an agreement so provides, the *Superannuation Act 1990* applies in relation to the person in accordance with the agreement.”.

Subsection 22(4):

Omit “Superannuation Act” (wherever occurring), substitute “*Superannuation Act 1976*”.

Paragraph 22(4)(a):

After “(3)” insert “or (3A)”.

SCHEDULE—continued

Paragraph 22(4)(b):

After “(3)” insert “or (3B)”.

After subsection 22(4):

Insert:

“(4A) The *Superannuation Act 1990* applies in relation to a relevant person if the person makes a declaration and election under subsection 244(1) of the *Superannuation Act 1976*.

“(4B) If the relevant person revokes, under section 247 of the *Superannuation Act 1976*, the declaration and election made under subsection 244(1) of that Act, subsection (4) applies in relation to the person as if he or she had not made the declaration and election.

“(4C) Subject to subsection (4A), in spite of anything in the *Superannuation Act 1990* or any other Act, the *Superannuation Act 1990*:

- (a) applies in relation to a relevant person employed under this Part only if the application of that Act is expressly provided for in the agreement for the employment of the person; and
- (b) applies in relation to such a person only as provided by subsection (3D).”.

Merit Protection (Australian Government Employees) Act 1984

Section 76:

Repeal the section, substitute:

Removal taken to be retirement on ground of invalidity

“76.(1) If a member is removed from office under section 75 of this Act following his or her suspension from office on the ground of physical or mental incapacity, then, for the purposes of the *Superannuation Act 1976*, he or she is taken to have been retired on the ground of invalidity within the meaning of Part IVA of that Act.

“(2) In spite of subsection (1), section 54C of the *Superannuation Act 1976* applies in relation to the member.

“(3) If a member is removed from office under section 75 of this Act following his or her suspension from office on the ground of physical or mental incapacity, then, for the purposes of the *Superannuation Act 1990*, he or she is taken to have been retired on the ground of invalidity within the meaning of that Act.

“(4) In spite of subsection (3), section 13 of the *Superannuation Act 1990* applies in relation to the member.

SCHEDULE—continued

Retirement on ground of invalidity under the Superannuation Acts

“76A.(1) In spite of anything contained in sections 74 and 75, a member who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(2) In spite of anything contained in sections 74 and 75, a member who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

National Crime Authority Act 1984

Section 43:

Add at the end:

“(4) In spite of anything contained in this section, a member who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(5) In spite of anything contained in this section, a member who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth

SCHEDULE—continued

Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

Ombudsman Act 1976

After section 28:

Insert:

Removal taken to be retirement on ground of invalidity

“28A.(1) If an Ombudsman is removed from office under section 28 of this Act following his or her suspension from office on the ground of physical or mental incapacity, then, for the purposes of the *Superannuation Act 1976*, he or she is taken to have been retired on the ground of invalidity within the meaning of Part IVA of that Act.

“(2) In spite of subsection (1), section 54C of the *Superannuation Act 1976* applies in relation to the Ombudsman.

“(3) If an Ombudsman is removed from office under section 28 of this Act following his or her suspension from office on the ground of physical or mental incapacity, then, for the purposes of the *Superannuation Act 1990*, he or she is taken to have been retired on the ground of invalidity within the meaning of that Act.

“(4) In spite of subsection (3), section 13 of the *Superannuation Act 1990* applies in relation to the Ombudsman.

Retirement on ground of invalidity under the Superannuation Acts

“28B.(1) In spite of anything contained in sections 27 and 28, an Ombudsman who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(2) In spite of anything contained in sections 27 and 28, an Ombudsman who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

SCHEDULE—continued

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

Section 30:

Repeal the section.

Parliamentary Contributory Superannuation Act 1948

Paragraph 4A(1)(b):

Add at the end:

“; and (iii) does not include a reference to any part of the lump sum constituting the transfer value that was based upon any excess contribution multiple within the meaning of the *Superannuation Act 1990* of the member”.

Public Service Act 1922

Subsection 38(1) (paragraph (a) of the definition of “pensioner”):

Before the paragraph insert:

“(aa) a person to whom an invalidity pension within the meaning of the *Superannuation Act 1990* is payable; or”.

Subsection 38(1) (paragraph (a) of the definition of “relevant person”)

After the paragraph insert:

“(ab) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; or”.

After subsection 38(2):

Insert:

“(2A) For the purposes of the *Superannuation Act 1990*, a person who holds a fixed term appointment, within the meaning of section 37, to an office of Secretary and was a relevant person immediately before being appointed is not, by reason only of his or her holding that appointment, a member of the superannuation scheme established by deed under that Act.”.

Subsection 38(4):

After “that” (second occurring), insert “, if the relevant person was appointed before 1 July 1990,”.

SCHEDULE—continued

After subsection 38(4):

Insert:

“(4A) Without limiting subsection (3), a determination under that subsection in relation to a relevant person appointed after 30 June 1990 may provide that the *Superannuation Act 1976* applies in relation to the person as if the person became an eligible employee within the meaning of that Act on a specified day if:

- (a) immediately before the person was appointed, deferred benefits were applicable to him or her under the *Superannuation Act 1976* or the *Superannuation Act 1922*; or
- (b) the person became, by virtue of his or her being so appointed, a re-employed former contributor with preserved rights within the meaning of the *Superannuation Act 1976*;

and where a determination so provides, the *Superannuation Act 1976* has effect accordingly.

“(4B) The day specified in the determination may be on or after, or not earlier than 3 months before, the date of the determination.

“(4C) Without limiting subsection (3), a determination under that subsection in relation to a relevant person may provide that the *Superannuation Act 1990* applies in relation to the person as if the person became a member of the superannuation scheme established by deed under that Act on a specified day if the person:

- (a) is appointed after 30 June 1990; and
- (b) is not a person to whom paragraph (4A)(a) or (b) applies;

and where a determination so provides, that Act has effect accordingly.

“(4D) The day specified in the determination may be on or after, or not earlier than 3 months before, the date of the determination, but is not to be before 1 July 1990.”.

Paragraph 38(5)(a):

After “(4)” insert “or (4A)”.

Paragraph 38(5)(b):

After “(4)” insert “or (4A)”.

After subsection 38(5):

Insert:

“(5A) The *Superannuation Act 1990* applies in relation to a person referred to in paragraph (5)(a) if the person makes a declaration and election under subsection 244(1) of the *Superannuation Act 1976*.

SCHEDULE—continued

“(5B) If the person revokes, under section 247 of the *Superannuation Act 1976*, the declaration and election made under subsection 244(1) of that Act, subsection (5) applies in relation to the person as if he or she had not made the declaration and election.

“(5C) Subject to subsection (5A), in spite of anything in the *Superannuation Act 1990* or any other Act, the *Superannuation Act 1990*:

- (a) applies in relation to a person who holds a fixed-term appointment, within the meaning of section 37, to an office of Secretary and was a relevant person immediately before being appointed only if the application of that Act is expressly provided for in a determination under subsection (3) in relation to the person; and
- (b) applies in relation to the person only as provided by subsection (4C).”.

Subsection 45(1) (paragraph (a) of the definition of “pensioner”):

Before the paragraph insert:

“(aa) a person to whom an invalidity pension within the meaning of the *Superannuation Act 1990* is payable; or”.

Subsection 45(1) (paragraph (a) of the definition of “relevant person”):

After the paragraph insert:

“(ab) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; or”.

After subsection 45(2):

Insert:

“(2A) For the purposes of the *Superannuation Act 1990*, a person who is a Senior Executive Service officer by virtue of a fixed-term appointment, within the meaning of section 44, and was a relevant person immediately before being appointed is not, by reason only of his or her holding that appointment, a member of the superannuation scheme established by deed under that Act.”.

Subsection 45(4):

After “that” (second occurring), insert “, if the relevant person was appointed before 1 July 1990,”.

After subsection 45(4):

Insert:

“(4A) Without limiting subsection (3), a determination under that subsection in relation to a relevant person appointed after 30 June

SCHEDULE—continued

1990 may provide that the *Superannuation Act 1976* applies in relation to the person as if the person became an eligible employee within the meaning of that Act on a specified day if:

- (a) immediately before the person was appointed, deferred benefits were applicable to him or her under the *Superannuation Act 1976* or the *Superannuation Act 1922*; or
- (b) the person became, by virtue of his or her being so appointed, a re-employed former contributor with preserved rights within the meaning of the *Superannuation Act 1976*;

and where a determination so provides, the *Superannuation Act 1976* has effect accordingly.

“(4B) The day specified in the determination may be on or after, or not earlier than 3 months before, the date of the determination.

“(4C) Without limiting subsection (3), a determination under that subsection in relation to a relevant person may provide that the *Superannuation Act 1990* applies in relation to the person as if the person became a member of the superannuation scheme established by deed under that Act on a specified day if the person:

- (a) is appointed after 30 June 1990; and
- (b) is not a person to whom paragraph (4A)(a) or (b) applies;

and where a determination so provides, that Act has effect accordingly.

“(4D) The day specified in the determination may be on or after, or not earlier than 3 months before, the date of the determination, but is not to be before 1 July 1990.”.

Paragraph 45(5)(a):

After “(4)” insert “or (4A)”.

Paragraph 45(5)(b):

After “(4)” insert “or (4A)”.

After subsection 45(5):

Insert:

“(5A) The *Superannuation Act 1990* applies in relation to a person referred to in paragraph (5)(a) if the person makes a declaration and election under subsection 244(1) of the *Superannuation Act 1976*.

“(5B) If the person revokes, under section 247 of the *Superannuation Act 1976*, the declaration and election made under subsection 244(1) of that Act, subsection (5) applies in relation to the person as if he or she had not made the declaration and election.

SCHEDULE—continued

“(5C) Subject to subsection (5A), in spite of anything in the *Superannuation Act 1990* or any other Act, the *Superannuation Act 1990*:

- (a) applies in relation to a person who is a Senior Executive Service officer by virtue of a fixed-term appointment, within the meaning of section 44, and was a relevant person immediately before being appointed only if the application of that Act is expressly provided for in a determination under subsection (3) in relation to the person; and
- (b) applies in relation to the person only as provided by subsection (4C).”.

Subsection 63F(11):

After “the *Superannuation Act 1976*” insert “or the *Superannuation Act 1990*”.

Subsection 63G(9):

After “the *Superannuation Act 1976*” insert “or the *Superannuation Act 1990*”.

Subsection 64(18) (paragraph (b) of the definition of “net salary”):

After “the *Superannuation Act 1976*” insert “or under Part 4 of the *Superannuation Act 1990*”.

Subsection 66B(5):

After “the *Superannuation Act 1976*” insert “or the *Superannuation Act 1990*”.

Section 76D:

Add at the end:

“(3) In spite of anything contained in this section, a Secretary who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(4) In spite of anything contained in this section, a Secretary who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

SCHEDULE—continued

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”

After section 76R:

Insert in Division 8B:

Retirement on ground of invalidity under the Superannuation Acts

“76RA.(1) In spite of anything contained in sections 76L and 76N, a Senior Executive Service officer who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(2) In spite of anything contained in sections 76L and 76N, a Senior Executive Service officer who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”

After section 76W:

Insert:

Retirement on ground of invalidity under the Superannuation Acts

“76WA.(1) In spite of anything contained in section 76W, an officer who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

SCHEDULE—continued

“(2) In spite of anything contained in section 76W, an officer who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

Paragraph 82AK(5)(b):

After “1976” insert “or the *Superannuation Act 1990*”.

Subparagraph 82D(4)(a)(iva):

After “1976” insert “or the *Superannuation Act 1990*”.

Subsection 87B(3):

After “are” (second occurring), insert “the following”.

Subparagraph 87B(3)(a)(ii):

Omit “and”.

Subparagraph 87B(3)(b)(ii):

Omit “applies.”, substitute “applies;”.

Subsection 87B(3):

Add at the end:

“(c) that arrangements satisfactory to the Minister for the time being administering the *Superannuation Act 1990* or to an officer authorised by that Minister for the purposes of this paragraph, have been made in relation to the provision of superannuation benefits under that Act for relevant employees who:

- (i) are employed by that body or as the holders of that office or appointment, as the case may be; and
- (ii) are members of the superannuation scheme established by deed under that Act by force of paragraph 6(1)(h) of that Act.”.

Paragraph 87B(6)(h):

Omit the paragraph, substitute:

“(h) for the employee if he or she is:

- (i) an eligible employee for the purposes of the *Superannuation Act 1976*; or

SCHEDULE—continued

(ii) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; immediately before he or she becomes engaged in the employment, to be exempted from liability to contribute for superannuation benefits otherwise than under the *Superannuation Act 1976* or the *Superannuation Act 1990* in respect of the employment.”.

Paragraph 87B(7)(c):

- (a) After “1976” insert “, or the *Superannuation Act 1990*,”.
- (b) Omit “that Act”, substitute “the *Superannuation Act 1976* or the *Superannuation Act 1990*”.

Subparagraph 87J(8)(a)(iii):

- (a) After “1976” insert “, or the *Superannuation Act 1990*,”.
- (b) Omit “that Act”, substitute “the *Superannuation Act 1976* or the *Superannuation Act 1990*”.
- (c) Omit “and”.

Subparagraph 87J(8)(b)(ii):

Omit “applies.”, substitute “applies;”.

Subsection 87J(8):

Add at the end:

“(c) that arrangements satisfactory to the Minister for the time being administering the *Superannuation Act 1990* or to an officer authorised by that Minister for the purposes of this paragraph, have been made in relation to the provision of superannuation benefits under that Act for persons engaged in that employment who:

- (i) are eligible persons in relation to that declared Commonwealth function; and
- (ii) are members of the superannuation scheme established by deed under that Act by force of paragraph 6(1)(h) of that Act.”.

Subparagraph 87N(7)(a)(iii):

After “1976” insert “or the *Superannuation Act 1990*”.

Resource Assessment Commission Act 1989

Subsection 45(8):

Omit the subsection.

SCHEDULE—continued

After section 45:

Insert in Division 1:

Removal taken to be retirement on ground of invalidity

“45A.(1) If a Commissioner:

(a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and

(b) is removed from office under section 45 on the ground of physical or mental incapacity;

for the purposes of that Act, he or she is taken to have been retired on the ground of invalidity within the meaning of Part IVA of that Act on the day on which he or she was suspended from office.

“(2) In spite of subsection (1), section 54C of the *Superannuation Act 1976* applies in relation to the Commissioner.

“(3) If a Commissioner:

(a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and

(b) is removed from office under section 45 on the ground of physical or mental incapacity;

for the purposes of that Act, he or she is taken to have been retired on the ground of invalidity within the meaning of that Act on the day on which he or she was suspended from office.

“(4) In spite of subsection (3), section 13 of the *Superannuation Act 1990* applies in relation to the Commissioner.

Retirement on ground of invalidity under Superannuation Acts

“45B.(1) In spite of anything contained in sections 45 and 51, a Commissioner who:

(a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and

(b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(2) In spite of anything contained in sections 45 and 51, a Commissioner who:

(a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and

(b) is under 60 years of age;

SCHEDULE—continued

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

Seamen's War Pensions and Allowances Act 1940

Subsection 4C(7):

Omit the subsection, substitute:

“(7) The Governor-General may, with the consent of a member of a Pensions Committee who is:

- (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or
- (b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*;

retire the member from office on the ground of physical or mental incapacity.”.

Section 4C:

Add at the end:

“(9) In spite of anything contained in this section, a member of a Pensions Committee who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(10) In spite of anything contained in this section, a member of a Pensions Committee who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

SCHEDULE—continued

Social Security Act 1991

Subsection 1334(9):

Omit the subsection, substitute:

“(9) If the National Convener or a senior member is:

- (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or
- (b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*;

the Governor-General may, with the consent of the National Convener or the senior member, by signed instrument, retire the National Convener or the senior member from office on the ground of physical or mental incapacity on a date specified in the instrument.”.

Subsection 1334(10):

Omit the subsection, substitute:

“(10) If an ordinary member is:

- (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or
- (b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*;

the Minister may, with the consent of the ordinary member, by signed instrument, retire the ordinary member from office on the ground of physical or mental incapacity on a date specified in the instrument.”.

Section 1334:

Add at the end:

“(13) In spite of anything contained in this section, the National Convener, a senior member or an ordinary member who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

Note: section 54C of the *Superannuation Act 1976* is relevant to the benefits that a member of the Commonwealth Superannuation Scheme may receive if he or she is being retired on the ground of invalidity.

“(14) In spite of anything contained in this section, the National Convener, a senior member or an ordinary member who:

SCHEDULE—continued

(a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and

(b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.

Note: section 13 of the *Superannuation Act 1990* is relevant to the benefits that a member of the Public Sector Superannuation scheme may receive if he or she is being retired on the ground of invalidity.”.

Veterans' Entitlements Act 1986

Subsection 164(6):

Omit the subsection, substitute:

“(6) The Governor-General may, with the consent of a member who is:

(a) an eligible employee for the purposes of the *Superannuation Act 1976*; or

(b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*;

by notice in writing, retire the member on the ground of physical or mental incapacity.

“(6A) The notice must specify the day on which the member is to be retired.

“(6B) The day specified in the notice must not be a day earlier than the day on which the Governor-General signed the notice.”.

Section 164:

Add at the end:

“(8) In spite of anything contained in this section, a member who:

(a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and

(b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(9) In spite of anything contained in this section, a member who:

SCHEDULE—continued

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.

Subsection 188(7):

Omit the subsection, substitute:

“(7) The Governor-General may, with the consent of a commissioner who is:

- (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or
- (b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*;

by notice in writing, retire the commissioner on the ground of physical or mental incapacity.

“(7A) The notice must specify the day on which the commissioner is to be retired.

“(7B) The day specified in the notice must not be a day earlier than the day on which the Governor-General signed the notice.”.

Section 188:

Add at the end:

“(9) In spite of anything contained in this section, a commissioner who:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

“(10) In spite of anything contained in this section, a commissioner who:

- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
- (b) is under 60 years of age;

SCHEDULE—continued

is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.”.



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