

1983

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Parliamentary Contributory Superannuation Amendment Bill 1983

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Finance  
the Hon J S Dawkins, MP)



## OUTLINE

The purpose of this Bill is to amend the Parliamentary Contributory Superannuation Act 1948 to provide that:-

- (a) no more than 50% of a parliamentary retiring allowance can be commuted to a lump sum;
- (b) a spouse's annuity be related to the member's residual retiring allowance and not the retiring allowance that would have been payable had the member not commuted;
- (c) the retiring allowance payable to a former member or the annuity payable to the spouse of a former member be reduced by the amount of any salary or pension derived from an office of profit under the Crown.

The Bill also amends the Act to clarify certain provisions and to correct possible drafting deficiencies.

## CLAUSE 2

Clause 2 provides that the principal amendments made by Bill will come into effect on a date, or dates, to be proclaimed.

## CLAUSE 3

Sub-clause 3(1) inserts in the Principal Act definitions of "Minister of State", "office", "office holder" and "salary" as a consequence of the remaking of section 13 and sub-section 18(9) of the Principal Act, by clauses 6 and 9 respectively.

Sub-clause 3(2) amends the definition of "parliamentary allowance" in the Principal Act and makes certain other changes as a consequence of changes to the Parliamentary Allowances Act 1952. Also, the reference to section 20A of the Principal Act is omitted from the definition of "period of service" as section 20A will be repealed when sub-section 10(2) of the Parliamentary Contributory Superannuation Amendment Act 1981 comes into operation on a date yet to be proclaimed.

Sub-clause 3(3) is a machinery provision relating to the deletion of the reference to section 20A in the definition of "period of service".

## CLAUSE 4

Clause 4 amends the description of a transfer value in sub-paragraph 4A(1)(b)(ii) of the Principal Act to update the reference to provisions in the Commonwealth Superannuation Scheme.

## CLAUSE 5

Clause 5 is a minor amendment to correct a possible drafting deficiency.

## CLAUSE 6

Clause 6 repeals and remakes section 13 of the Principal Act, in order to clarify the provisions relating to the payment of additional contributions by Ministers and office holders in the Parliament.

## CLAUSE 7

Clause 7 amends section 14 of the Principal Act as a consequence of the changes made by clause 6 and sub-clause 11(2).

## CLAUSE 8

Clause 8 relocates a provision relating to the calculation of the Commonwealth supplement from section 13 to section 16 of the Principal Act.

## CLAUSE 9

Clause 9 repeals and remakes sub-section 18(9) of the Principal Act, which provides for the payment of additional retiring allowances to former members, in order to clarify its application where a person

held more than one office concurrently. The clause also makes minor changes to section 18 to correct possible drafting deficiencies and as a consequence of amendments to the Parliamentary Allowances Act 1952.

#### CLAUSE 10

Clause 10 amends section 18A of the Principal Act to remove references to section 20A which will be repealed when sub-section 10(2) of the Parliamentary Contributory Superannuation Amendment Act 1981 comes into operation on a date yet to be proclaimed.

#### CLAUSE 11

Clause 11 amends the commutation provisions of the Principal Act in section 18B.

Sub-clause 11(1) repeals and remakes sub-section 18B(6) which specifies the amount of retiring allowance payable after the member has commuted a percentage of his or her retiring allowance. The redrafted sub-section simplifies the formula used and clarifies its application in cases where the member is entitled to additional retiring allowance in respect of service as a Minister or office holder.

Sub-clause 11(2) amends section 18B to limit to a maximum of 50% the percentage of a retiring allowance that may be commuted.

Sub-clause 11(3) is a machinery provision to ensure the effectiveness of the redrafted sub-section 188(6) until the amendments made by sub-clause 11(2) come into operation.

#### CLAUSE 12

Clause 12 amends section 19 of the Principal Act, which relates to the payment of a spouse's annuity to provide that, where the former member has commuted a percentage of his retiring allowance, the spouse's annuity will be five-sixths of the residual retiring allowance that would have been payable to the former member. The clause also amends section 19 as a consequence of the amendments to the Principal Act:

- . limiting commutation to a maximum of 50% of a retiring allowance; and
- . reducing a retiring allowance or annuity where the person holds or has held an office of profit under the Crown.

Sub-clause 12(3) is a machinery provision clarifying the application of the amendments effected by sub-clause 12(2).

#### CLAUSES 13, 14, 15, 16, 17 AND 18

These clauses amend various sections of the Principal Act as a consequence of the amendments made by this Bill limiting commutation to a maximum of 50% of a retiring allowance, reducing a retiring allowance or annuity where the person holds or has held an office of profit under the Crown and changing certain definitions. Where

necessary, machinery provisions are included relating to the application of the amendments in the period before certain repeal provisions of the Parliamentary Contributory Superannuation Amendment Act 1981 come into effect.

#### CLAUSE 19

Sub-clause 19(1) inserts a new section in the Principal Act

- section 21B - providing for a retiring allowance or annuity to be reduced where a person holds or has held an office of profit under the Crown.

The new sub-section 21B(1) defines the terms used in the subsequent sub-sections.

Sub-section 21B(2) provides that where a person who is entitled to a retiring allowance or spouse's annuity:

. holds an office of profit under the Commonwealth, a State or a Territory; or

. is entitled to a pension arising out of such an office,

the retiring allowance or annuity payable will be reduced by the amount of the remuneration or pension received in respect of that office.



Sub-section 21B(3) provides that where the remuneration or pension is paid at other than a periodical rate, for example, in a lump sum or at irregular intervals, the Parliamentary Retiring Allowances Trust shall determine the amount by which the fortnightly retiring allowance or annuity will be reduced.

Sub-section 21B(4) provides that the retiring allowance or annuity shall be reduced by no more than one-half of the uncommuted retiring allowance or full annuity.

Sub-sections 21B(5), (6) and (7) require a person who is entitled to a retiring allowance or annuity to provide information about any office of profit to which they are appointed and provide that a penalty of up to \$500 may be imposed for failure to do so.

Sub-section 21B(8) provides for a penalty of up to \$2,000 for any person who furnishes information that is, to his knowledge, false or misleading in a material particular.

Sub-clause 19(2) provides that the new section 21B will apply only to a former member who becomes entitled to a retiring allowance after the date to be proclaimed under clause 2 or to a serving member who dies after that date.

#### CLAUSE 20

Clause 20 makes amendments to section 23 of the Principal Act as a consequence of the definitions inserted by sub-clause 3(1).

# CLAUSE 21

Clause 21 repeals and remakes section 248 of the Principal Act to specify a more accurate method of calculating the amount of retiring allowance or annuity payable in respect of a period of one or more days.

# CLAUSE 22

Clause 22 provides that regulations made for the purpose of certain definitions inserted in the Principal Act by clause 3 can be made with limited retrospective effect.

# CLAUSE 23

Sub-clause 23(1) provides that the 50% limit on the amount of a retiring allowance that can be commuted, will not apply to members who retired from the Parliament before the date to be proclaimed under clause 2.

Sub-clause 23(2) provides that where a person commuted before the proclamation date, re-enters the Parliament and retires after that date:-

- . the person will not be eligible to again commute if he has already commuted 50% or more of his retiring allowance; and
- . if the person had previously commuted less than 50% of his retiring allowance, he will be eligible to again commute but only to the extent of the difference between the amount already commuted and 50% of his retiring allowance.

Sub-clause 23(3) provides that where a former member who retired from the Parliament before the date to be proclaimed under clause 2 had commuted the whole or a percentage of his retiring allowance, his spouse or orphan children will receive annuities based on the retiring allowance to which he would have been entitled had he not commuted.

Sub-clause 23(4) provides that where a person commuted before the date of proclamation, re-enters the Parliament and dies after the date of proclamation, the spouse's annuity will include five-sixths of any retiring allowance commuted before the date of proclamation.

Sub-clause 23(5) provides that the existing provisions relating to a reduction in the rate of a retiring allowance or annuity as a consequence of receipt of another Commonwealth pension will continue to apply in respect of former members who retired from the Parliament before the date of proclamation.

