

1994

**THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA**

HOUSE OF REPRESENTATIVES

SUPERANNUATION LAWS AMENDMENT BILL 1994

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Finance,
the Honourable Kim Beazley, MP)



SUPERANNUATION LAWS AMENDMENT BILL 1994

GENERAL OUTLINE

The purpose of this Bill is to amend three Acts dealing with superannuation for Commonwealth Parliamentarians. The amendments mainly affect the *Parliamentary Contributory Superannuation Act 1948* (the Act); the amendments to the *Parliamentary Contributory Superannuation Amendment Act 1981* and the *Parliamentary Contributory Superannuation Amendment Act 1983* are consequential amendments.

The proposed amendments to the Act allow the superannuation scheme established under the Act (the Scheme) to comply with the *Superannuation Industry (Supervision) Act 1993* and associated Acts and Regulations (the SIS legislation) in relation to vesting and preservation of members' benefits, and disclosure of information to members of the Scheme. The opportunity has also been taken to correct inequities in the Scheme which relate to former members who hold offices of profit, invalidity retirement, transfers between the Commonwealth Parliament and State and Territory Parliaments, and to make a minor amendment to spouse benefits.

The SIS legislation provides for the prudent management of certain superannuation funds, particularly with regard to the security of members' monies, and for certain minimum standards. Although the SIS Act provides the capacity for unfunded public sector superannuation schemes to be exempted from these arrangements, the Government has decided that all Commonwealth schemes will comply with the main operative provisions of SIS, that is vesting, preservation and disclosure of information to fund members.

Vesting

The SIS legislation and the *Superannuation Guarantee (Administration) Act 1992* require that all employees receive a minimum level of employer sponsored superannuation support. The pension benefits provided by the Scheme (termed "parliamentary retiring allowances" where they are payable to a former member, or spouses' annuities where the pension is a reversionary benefit payable to a spouse of a former member) will meet this minimum requirement in all cases. However, the lump sum benefits of persons who do not qualify for a pension will not, in some cases, meet the minimum requirement. The Bill would amend the Act to increase the amounts of these lump sums as necessary to ensure that they meet the minimum requirements of the Superannuation Guarantee legislation.

Preservation

There are no provisions in the Scheme which require that benefits be preserved. The SIS legislation requires that certain lump sum benefits be preserved in a superannuation fund or an approved deposit fund until beneficiaries reach the preservation age (currently age 55) and retire from the workforce, or be used to purchase a deferred annuity which cannot be accessed until the preservation age is reached. The pensions paid under the Scheme meet the preservation requirements of SIS.

The Bill proposes amendments to the Act to require the preservation of lump sum benefits in line with the SIS legislation.

Disclosure

There are currently no provisions in the Act requiring disclosure of information to members.

The Bill proposes amendments to the Act to require that information be disclosed to members in line with the requirements of the SIS Regulations. (The Department of Finance, which administers the Scheme, has been providing annual benefit statements to members for the past three years.)

Pension reduction due to the holding of an office of profit

The Act currently provides for the reduction of a pension where a beneficiary is the holder of an office of profit. The Bill proposes amendments to the Act to provide for the decrease in the amount of pension reduction from one dollar to 50 cents for each dollar earned from an office of profit, and to provide a threshold below which earnings from an office of profit cause no reduction in pension.

Invalidity retirement

The Act currently provides for the Parliamentary Retiring Allowances Trust to grant a Member of the Scheme invalidity retirement if it is of the opinion that the member's resignation from the Parliament is made bona fide on grounds of ill-health. The Act provides little guidance for the Trust in making a decision. The current arrangements also do not provide for a graduated access to the full invalidity benefit in recognition of the special demands of parliamentary service.

Accordingly, the Bill proposes amendments to the Act to establish clear procedures to be followed where there is an application for invalidity retirement, to provide for three degrees of invalidity retirement with differing benefits applying to each, and to provide a mechanism to review invalidity assessments.

Recognition of State/Territory Parliamentary Service

The Act currently provides for the recognition in certain circumstances of periods of service in a State or Territory Parliament, and for the reduction of benefits payable from the Scheme where the beneficiary is a member of a State or Territory Parliament or is receiving a pension as a result of such a membership.

The Bill proposes that the Act be amended so that periods of State or Territory Service are recognised in the Scheme only to the extent that a transfer value paid from the State or Territory scheme to the Commonwealth Scheme is used to purchase Commonwealth service. If a transfer value were paid, the State or Territory service would be recognised in the same way as service from other employment is recognised on the payment of a transfer value. It is proposed that benefits paid under the Act would continue to be reduced where the beneficiary is a member of a State or Territory Parliament or currently receives a State or Territory pension, but would not be reduced where a new beneficiary of the Scheme is also in receipt of a State or Territory parliamentary pension.

Transitional arrangements apply to ensure that current members are not disadvantaged.

FINANCIAL IMPACT STATEMENT

It is not possible to quantify the precise financial impact of the changes in the Bill because of the limited application of the amendments in the small parliamentary superannuation scheme.

Nonetheless, the restoration or partial restoration of pensions to certain persons who currently hold an office of profit are estimated to cost \$80,000 in a full year. It is expected that, in the longer term, these additional costs will be more than offset by savings made by the Commonwealth no longer recognising prior State or Territory parliamentary service at no cost to the State or Territory. In summary, therefore, any changes in immediate Budgetary outlays or the change in long-term costs from the measures in the Bill are expected to be relatively insignificant.

NOTES ON CLAUSES

PART 1 - PRELIMINARY

Clause 1 - Short title

Clause 1 provides for the short title of the Act to be the *Superannuation Laws Amendment Act 1994*.

Clause 2 - Commencement

2. **Clause 2** provides for the commencement of the Act.

PART 2 - AMENDMENT OF THE PARLIAMENTARY CONTRIBUTORY SUPERANNUATION ACT 1948

Division 1 - Preliminary

Clause 3 - Principal Act

3. **Clause 3** defines the Principal Act for the purposes of this Part to be the *Parliamentary Contributory Superannuation Act 1948*.

Division 2 - Amendments to bring the Parliamentary contributory superannuation scheme into line with the superannuation industry supervision legislation

Clause 4 - Object

4. **Clause 4** explains that the object of this Division is to ensure that the Parliamentary Contributory Superannuation Scheme complies with the vesting, preservation and disclosure requirements of the superannuation industry supervision legislation.

Clause 5 - Interpretation

5. **Clause 5** amends section 4 of the Principal Act by inserting in subsection (1) a definition of "superannuation guarantee safety net amount".

Clause 6 - Insertion of new section

6. **Clause 6** inserts a new section, 16A, concerning the "superannuation guarantee safety net amount" in the Principal Act. The superannuation guarantee safety net amount is the minimum amount of employer sponsored superannuation support which needs to be provided to avoid there being a superannuation guarantee shortfall in respect of an individual member of Parliament. On retirement before pension qualification a member will be paid the higher of the current lump sum benefit or the superannuation guarantee safety net amount.
7. The superannuation guarantee safety net amount is the sum of the following amounts:
- (a) the member's own contributions relating to the period of service after 30 June 1992 (the date from which the Superannuation Guarantee arrangements commenced);
 - (b) interest on those contributions which would have accrued had they been paid into the superannuation scheme established for Australian Public Servants under the *Superannuation Act 1990* (where a member's service is interrupted, and the person ceases to be a member, no interest is payable during the period in which the person is not a member - for example during breaks in periods of parliamentary service);

- (c) the minimum level of employer sponsored superannuation which would have needed to have been provided to avoid having any individual Superannuation Guarantee shortfall as described in the Superannuation Guarantee legislation assuming no employer superannuation were being provided (including that from the Scheme) that counted for SG purposes (ie currently 5 per cent of salaries increasing to 9 per cent by the year 2002);
- (d) interest on the minimum level of employer sponsored superannuation which would have accrued had those monies been paid into the superannuation scheme established under the *Superannuation Act 1990*; and
- (e) If the member had continuous parliamentary service from 30 June 1992 and would have been entitled to a lump sum benefit had he or she retired voluntarily on 30 June 1992, that lump sum amount plus interest which would have accrued had that lump sum amount been paid into the superannuation scheme established under the *Superannuation Act 1990* on 30 June 1992.

8. Subsection 16A.(2) requires that where a superannuation guarantee safety net amount is paid to a member, the component of that amount which is attributable to the member's own contributions to the Scheme is taken to be a refund of those contributions. This ensures, for example, that there is no possibility of a double amount of member contributions being paid out.

9. Subsection 16A.(3) inserts various definitions used in the section.

Clause 7 - Benefits to members

10. **Clause 7** amends section 18 of the Principal Act to ensure that persons who retire on involuntary grounds before qualifying for a pension will receive the greater of their own contributions plus a Commonwealth supplement (equal to two and one third times those contributions) or the superannuation guarantee safety net amount).

11. The amendment also provides that persons retiring from the Parliament voluntarily without qualifying for a pension, receive a benefit of the greater of their own contributions plus half of the Commonwealth supplement or the superannuation guarantee safety net amount.

12. Where the amount of a member's own contributions plus the whole or half of the Commonwealth supplement is equal to the superannuation guarantee safety net amount, the benefit paid to the person will be the member's own contributions plus the Commonwealth supplement.

Clause 8 - Benefits payable to personal representative

13. **Clause 8** amends subsection 19AB.(1) of the Principal Act to provide that where a **person** who is a member of the Parliament, or a former member of the Parliament in receipt of a **pension** dies and is not survived by a spouse or a child to whom a reversionary benefit would be **payable**, the person's personal representative shall be paid the difference between the amount of **any** benefits that have already been paid to the deceased person and the greater of:

- a refund of his or her own contributions plus the Commonwealth supplement; or
- the superannuation guarantee safety net amount.

14. In addition **Clause 8** amends subsection 19AB.(2) to provide that where a person dies and the total of all benefits payable to the person or to the person's surviving spouse or orphan children from the Scheme are less than the member's own contributions plus the Commonwealth supplement or the superannuation guarantee safety net amount, the personal representative shall be paid the difference between the total benefits paid and the larger of the superannuation

guarantee safety net amount and the member's own contributions plus the Commonwealth supplement. This clause has the effect of extending the existing provision to cases where the superannuation guarantee safety net amount is larger than the sum of the member's own contributions plus the Commonwealth supplement.

Clause 9 - Re-election to the Parliament

15. **Clause 9** amends section 20 of the Principal Act to provide that where a person has received a superannuation guarantee safety net amount on leaving the Parliament, and that person is later re-elected to the Parliament, the person may contract with the Parliamentary Retiring Allowances Trust to repay the amount so that the prior service will be recognised for future benefit purposes. This amendment ensures that the superannuation guarantee safety net amount is treated in the same way on re-election to the Parliament as a refund of contributions plus Commonwealth supplement.

Clause 10 - Members who pay to Commonwealth transfer values received from previous employment

16. **Clause 10** amends section 22Q of the Principal Act by omitting and replacing subsection (5). The new subsection (5) applies to a member who has paid a transfer value to the Scheme in respect of previous employment and receives a refund of contributions plus part or the whole of the Commonwealth supplement, or a superannuation guarantee safety net amount on leaving the Parliament. Such a member will receive the full transfer values paid to the Commonwealth, plus interest that would have accrued had the transfer value been paid into the superannuation scheme established under the *Superannuation Act 1990* from the later of 30 June 1992 or the date it was paid to the Commonwealth.

Clause 11 - Insertion of new section

17. **Clause 11** inserts a new section 26B into the Principal Act relating to preservation of lump sum benefits and disclosure of information to members.

18. Subsection 26B.(1) provides that section 26B applies to the Superannuation Industry (Supervision) Regulations (the SIS regulations) as they relate to the preservation of benefits and the disclosure of information to members of regulated superannuation funds.

19. Subsection 26B.(2) provides that the SIS regulations apply (with any necessary alteration in the contextual details of those regulations because of the unfunded nature of the Scheme) to the Parliamentary Retiring Allowances Trust and the Scheme, as if the Scheme were a regulated superannuation fund.

20. Subsection 26B.(3) provides that where there is an inconsistency between a provision of the Act and the SIS regulations, the regulations prevail and the provision of the Act, to the extent of any inconsistency, is of no effect.

21. Subsection 26B.(4) provides that where benefits payable under the Principal Act are required by the SIS regulations to be preserved, those benefits shall be paid to a regulated superannuation fund, an approved deposit fund, or a deferred annuity chosen by the member, or if a choice is not made within 90 days, to an approved deposit fund chosen by the Trust.

22. Subsection 26B.(5) provides that where amounts are preserved in accordance with subsection (4), the amounts are taken to have been received by the member.

23. Subsection 26B.(6) provides definitions of various terms used in the section.

Division 3 - Amendments relating to invalidity

Clause 12 - Object

24. **Clause 12** states that the object of this Division is to provide for a new system of invalidity benefits.

Clause 13 - Interpretation

25. **Clause 13** inserts in section 4 of the Principal Act various definitions which are used in the new invalidity arrangements.

Clause 14 - Insertion of new section

26. **Clause 14** inserts a new section 4D into the Principal Act to provide the Trust and medical practitioners with guidance on what matters may be considered in assessing a person's incapacity in the context of employment outside the Parliament.

27. Those matters include, but are not limited to

- the vocational, trade and professional skills, qualifications and experience of the person;
- the kinds of non-parliamentary employment which a person with such skills, qualifications, and experience might reasonably undertake;
- the degree to which any physical or mental impairment has diminished his or her capacity to undertake non-parliamentary employment of that nature; and
- the income (if any) derived by the person from personal exertion.

28. When making a decision whether to grant or refuse a person's application for invalidity retirement, the Trust can have regard to any relevant evidence.

Clause 15 - Insertion of new section

29. **Clause 15** inserts new sections 15A, 15B and 15C into the Principal Act relating to invalidity retirement.

30. Subsection 15A.(1) describes the circumstances in which the new invalidity arrangements apply.

31. Subsection 15A.(2) provides that the Trust may determine that resignation, or the failure to be a candidate at an election, is to be treated as invalidity retirement. The person, or someone on the person's behalf (if the person is incapable of applying in person) may apply to the Trust for the retirement to be treated as an invalidity retirement. Where the Trust is satisfied that the person is unlikely to ever be able to perform the duties of a member again, the Trust may issue a determination to that effect.

32. Subsection 15A.(3) requires that applications for invalidity retirement are to be accompanied by at least two medical certificates; one from a medical practitioner nominated by the Trust and one from a medical practitioner nominated by the person.

33. Subsection 15A.(4) provides that the medical certificates must specify that the medical practitioner is of the opinion that the person concerned is unlikely to ever be able to perform the duties of a member again, and an opinion of the percentage of the person's incapacity in the context of non-parliamentary employment.

34. Subsection 15A.(5) provides that the Trust must consult with a Senior Commonwealth Medical Officer when considering which medical practitioner to nominate to examine the person. This ensures that the Trust appoints a medical practitioner with appropriate expertise to assess the case.

35. Subsection 15A.(6) provides that where the Trust refuses an application for an invalidity determination, the Trust must notify the applicant in writing of that refusal. The *Administrative Appeals Tribunal Act 1975* (the AAT Act) and the *Administrative Decisions (Judicial Review) Act 1977* (the AD(JR) Act) apply. (The AAT Act requires that that notification should be provided as soon as practicable, or in any case, within 28 days of making the decision. The AD(JR) Act requires that if a person subject to a decision requests that reasons for the decision be provided, a decision maker must do so as soon as practicable, or in any case, within 28 days after receiving the request.)

36. The new section 15B applies in cases where the Trust has determined, in accordance with subsection 15A.(2), that a person's retirement was on invalidity grounds.

37. Subsection 15B.(2) provides that the Trust is responsible for determining a person's percentage of incapacity in relation to non-parliamentary employment.

38. Subsection 15B.(3) provides that the Trust, having determined the percentage of a person's incapacity for non-parliamentary employment, must determine on the basis of that percentage, whether the person is a class 1, 2 or 3 invalid.

- Class 1 invalidity applies to persons who the Trust considers have 60 per cent or more incapacity. In general, persons in this category would be considered to be unable to ever work again in non-parliamentary employment.
- Class 2 invalidity applies to persons whom the Trust considers have incapacity of 30 or more percent, but less than 60 per cent. Persons in this category would be considered to be able to work, at a reduced capacity, in non-parliamentary employment.
- Class 3 invalidity applies to persons whom the Trust considers have less than 30 per cent incapacity. Persons in this category would be considered able to perform non-parliamentary employment for which they are qualified with little difficulty.

39. Subsection 15B.(4) provides that the Trust must notify a person in writing of its decision regarding a person's invalidity made under subsection 15B(3). The decision would also be subject to administrative review under the AAT Act and the AD(JR) Act.

40. Subsections 15C.(1) and (2) provide that section 15C, which relates to the review of invalidity classifications, applies to persons who have been classified by the Trust as class 1 or class 2 invalids, and who would not have qualified for a pension on retirement other than as an invalid.

41. Subsection 15C.(3) provides that the Trust may review a person's classification either on its own initiative or because it has been requested to do so by the person.

42. Subsection 15C.(4) provides that any requests for review of the person's invalidity classification made by a person under subsection 15C.(3) must be made in writing and must be accompanied by a written submission in support of the request plus a certificate by a medical practitioner nominated by or on behalf of the person.

43. Subsection 15C.(5) provides that a medical certificate in support of a request for a review of a decision must state the medical practitioner's assessment of the percentage of the person's incapacity in relation to non parliamentary employment.

44. Subsection 15C.(6) provides that where a request for a review of an invalidity classification made under paragraph 15C.(3)(b) is refused by the Trust, the Trust must give the person a written notice of the refusal. Such a notice would be subject to administrative review under the AAT Act and the AD(JR) Act.
45. Subsections 15C.(7) and (8) provide that the Trust may request in writing that the person under review submit himself or herself to a medical examination by a specified medical practitioner at a time and place specified by the Trust. The Trust may also request the person to provide relevant information or documents. Multiple requests may be issued.
46. Subsection 15C.(9) requires that the Trust consult with a Senior Commonwealth Medical Officer about the identity of a medical practitioner to be appointed to a person whose case is being reviewed. This requirement ensures that the medical practitioner appointed has appropriate expertise to assess the case.
47. Subsection 15C.(10) provides for the suspension of the retiring allowance of a person who fails to undergo a medical examination or to provide relevant information or documents. Section 33 of the *Acts Interpretation Act 1901* allows the Trust to revoke the notice of suspension.
48. Subsection 15C.(11) provides that the Trust may determine that a person is entitled to be reimbursed for an amount that it considers reasonable in relation to expenses incurred in respect of attendance at the examination. Those expenses may relate to transport, accommodation, the purchase of food or drink and incidental expenses.
49. Subsection 15C.(12) provides that the Trust must make a decision in relation to the review. The Trust may confirm the person's classification or, if the person is not a class 3 invalid, re-classify the person to another class. Reviews are subject to the same criteria as the original determination. The classification of class 3 invalids is not subject to review.
50. Subsection 15C.(13) provides that a decision on a review is to be made on the basis of the original physical or mental impairment upon which the original determination was made. Any subsequent impairment not relevant to the original determination is not to be taken into account.
51. Subsections 15C.(14), (15) and (16) provide for implementation of the Trust's decision to reclassify a person. Such decisions are subject to administrative review under the AAT Act and the AD(JR) Act.
52. Subsection 15 C.(17) provides that where a person is reclassified as a class 3 invalid, the class 3 invalidity benefit payable to the person is to be reduced by the amount of any class 1 or class 2 benefit already paid to the person.

Clause 16 - Meaning of voluntary retirement.

53. **Clause 16** amends section 17 of the Principal Act (relating to the meaning of voluntary retirement) as a consequence of the new invalidity retirement arrangements. Members who retire on invalidity grounds are considered to have retired involuntarily.

Clause 17 - Benefits to members

54. **Clause 17** amends section 18 of the Principal Act (which relates to the level of benefits payable to members on retirement) to provide for the new categories of benefit payable on invalidity retirement.

55. A new subsection, 18.(2AA), is inserted to provide for the level of benefits on invalidity retirement. Where a person is determined to be a class 1 invalid, the benefit is a pension of 50 per cent of the parliamentary allowance. The class 2 benefit is a pension of 30 per cent of the parliamentary allowance. Where the Trust determines that a person is a class 3 invalid, the benefit is the higher of a refund of contributions plus the Commonwealth supplement or the superannuation guarantee safety net amount.

56. Where a person's pension benefit on involuntary retirement is higher than the invalidity benefit, the higher involuntary retirement benefit is payable.

Clause 18 - Repeal of section 18A

57. **Clause 18** repeals section 18A of the Act which provided for the invalidity arrangements which have been replaced by the new arrangements detailed in Division 3.

Clause 19 - Commutation of retiring allowance

58. **Clause 19** is a consequential amendment of section 18B of the Principal Act that continues the previous practice of not permitting any portion of an invalidity pension to be commuted to a lump sum.

Clause 20 - Insertion of new section

59. **Clause 20** inserts a new section 24D into the Principal Act which makes provision for the Trust to give advice to persons who are contemplating retirement on invalidity grounds.

60. Subsection 24D.(4) provides some examples of the advice that the Trust may give a member. For instance, the Trust may recommend that a member undertake medical treatment, or apply for leave of absence; it may also advise the member about the invalidity provisions in the Act and advise the member to be examined by a medical practitioner nominated by the Trust.

61. Subsection 24D.(5) provides that the Trust must consult a Senior Commonwealth Medical Officer about the identity of a medical practitioner it would nominate to examine the member. This ensures that a medical practitioner appointed would have appropriate expertise for the case.

62. Subsection 24D.(6) provides for the definition of "medical treatment".

Clause 21 - Application

63. **Clause 21** provides that the new invalidity retirement arrangement (other than section 24D, which provides the Trust with an advisory role in respect of current members) would only apply to persons who cease to be members after the commencement of this clause (1 July 1994).

Division 4 - Amendments relating to former members etc. who hold offices of profit

Clause 22 - Object

64. **Clause 22** sets out the objects of this Division which are:

- to provide a monetary threshold of office of profit salary before implementation of any reductions in parliamentary pension;
- to provide for tax free salaries payable in respect of offices of profit to be increased to the level of taxed salary that would apply to produce the same net salary as the tax free salary; and

- to abolish the requirement that parliamentary pensions be reduced where the beneficiary is receiving a pension arising from an office of profit.

Clause 23 - Effect of the holding of offices of profit - reduction of certain retiring allowances and annuities

65. **Clause 23** provides for the amendment of section 21B of the Principal Act which underpins the pension reduction provisions where a person holds an office of profit.

66. **Paragraphs 23.(a) and 23.(b)** amend subsection 21B.(1) by omitting the definition of "pension" and including new definitions.

67. **Paragraph 23.(c)** amends section 21B by omitting and replacing subsection (2) and adding subsection (2A). The new subsection (2) provides that, subject to subsection (4) (which states that the parliamentary pension must not be reduced by more than half the precommutation amount of the pension payable) there is an office of profit salary threshold equal to 20 per cent of the parliamentary allowance, before any reduction of pension. Above that threshold, the pension is reduced by 50 cents for each dollar of income earned from the office of profit.

68. Subsection 2A provides that where income from an office of profit is not subject to income tax, the reduction is to be applied to the amount of gross taxable income that would need to be provided to produce an after tax income equal to the tax free income.

69. Subsection (3) provides that the Trust may determine in writing a rate of remuneration for an office of profit which is to be taken as a fortnightly rate in cases where the remuneration from the office of profit is paid otherwise than on a fortnightly basis.

70. Subsection (3A) provides the formula to be used to convert annual amount of parliamentary allowance to a fortnightly amount for the purposes of calculating the threshold.

Clause 24 - Application

71. **Clause 24** provides that the amendments by Division 4 will apply in respect of any payments of relevant benefits made after the commencement of clause 24 (1 July 1994).

Division 5 - Amendments relating to members who have previously served in State and Territory Parliaments

Clause 25 - Object

72. **Clause 25** states that the object of Division 5 is to align the rules applying to the recognition of prior State or Territory parliamentary service with those applying to prior non parliamentary employment.

Clause 26 - Interpretation

73. **Clause 26** amends section 4 of the Principal Act by inserting a new subsection 4(A) which defines, for the purposes of the Act, the employer of members of State Parliaments and the Legislatures of the Australian Capital Territory and Northern Territory.

Clause 27 - Members who were in the Parliament on 1 July 1994 - recognition of prior service in a State or Territory Parliament

74. **Clause 27** amends section 20A by inserting new subsections.

75. Subsection (1AA) defines an "eligible member" as a person who was a member when the new arrangements for recognition of prior State or Territory Parliamentary service became law.

Subsection (1AB) provides that the new arrangements apply to eligible members and subsection (1AC) enables eligible members to elect that the new arrangements do not apply to them. Where a person so elects, the previous arrangements concerning the recognition of State or Territory parliamentary service continue to apply. Subsection (1AD) provides that an election must be made within 12 months of the new arrangement becoming law, or, if a general election is held within that time, by the day before that general election.

76. Subsection (4) provides for the payment of a transfer value in respect of an eligible member from the former State or Territory parliamentary scheme. The eligible member has 12 months or, if a general election is held within 12 months, until the day before the day on which that election is held, to elect to pay a transfer value to the Commonwealth.

77. Subsection (5) provides that where an eligible member chooses to be covered by the existing transfer arrangements, his or her previous parliamentary service would not count as "previous employment" of the kind referred to in section 22Q.

78. Subsection (6) provides that, for the purposes of section 20A, a general election means a general election of the House of Representatives.

Division 6 - Amendments relating to the rule requiring reduction of a retiring allowance or annuity payable to a person receiving a State or Territory parliamentary pension

Clause 28 - Object

79. **Clause 28** states that the object of Division 6 is to abolish the rule requiring the reduction of a retiring allowance or annuity payable to a person receiving a State or Territory parliamentary pension.

Clause 29 - Reduction of benefits as a result of membership of a State Parliament, the Northern Territory Legislative Assembly or the ACT Legislative Assembly

80. **Clause 29** amends Section 21 of the Principal Act by omitting the existing subsection 21.(1) and substituting new subsections 21.(1) and 21.(1AA). Like the old subsection 21.(1), the new subsection 21.(1) provides that members in receipt of a retiring allowance or annuity who are elected to a State or Territory Parliament are to have that allowance or annuity reduced by the amount of the salary paid in the State or Territory Parliament. However, unlike the old subsection 21.(1), the new subsection 21.(1) does not provide for the reduction of retiring allowance or annuity if the member is in receipt of a pension or annuity from a State or Territory Parliament.

81. Subsection 21.(1AA) provides for pension reduction where a person, who is currently in receipt of a State or Territory pension, or who is an eligible member who has not made an election under subsection 20A.(1AC), becomes entitled to a State or Territory parliamentary pension.

Division 7 - Amendments relating to ACT self-government

Clause 30 - Object

82. **Clause 30** states that the object of Division 7 is to make certain amendments consequent upon ACT self-government.

Clause 31 - Amendments

83. **Clause 31** provides that the Principal Act is amended as set out in the Schedule.

Division 8 - Amendments to update the definition of "parliamentary allowance"

Clause 32 - Object

84. **Clause 32** states that the object of Division 8 is to update the definition of "parliamentary allowance" for the purposes of the Principal Act.

Clause 33 - Interpretation

85. **Clause 33** provides that the definition of "parliamentary allowance" in subsection 4.(1) of the Principal Act includes the salary payable to backbench members under the *Remuneration and Allowances Act 1990*.

Division 9 - Amendments relating to spouse benefits

Clause 34 - Object

86. **Clause 34** states that the object of Division 9 is to abolish the rule restricting access to spouse benefits where the spouse becomes a member.

Clause 35 - Re-election to the Parliament

87. **Clause 35** omits subsection 20.(4) of the Principal Act, thereby enabling a person entitled to the payment of a spouse's annuity in the event of the death of his or her spouse, and who subsequently becomes a member, to actually receive the spouse's annuity in the event of the death of his or her spouse.

**PART 3 - AMENDMENT OF THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION AMENDMENT ACT 1981**

Clause 36 - Object

88. **Clause 36** states that the object of Part 3 is to repeal certain unproclaimed amendments to the Scheme.

Clause 37 - Principal Act

89. **Clause 37** states that the Principal Act for the purposes of this part is the *Parliamentary Contributory Superannuation Amendment Act 1981*.

Clause 38 - Commencement

90. **Clause 38** removes the reference from the Principal Act that allows for the commencement of subsection 10.(2) (concerning the repeal of section 20A of the *Parliamentary Contributory Superannuation Act 1948*), subsection 11.(2) and section 12 (which relate to the amendment of section 21 of the *Parliamentary Contributory Superannuation Act 1948*).

**Clause 39 - Period of service as a member of State Parliament or Northern Territory
Legislative Assembly to be taken into account in certain circumstances**

91. **Clause 39** amends section 10 of the Principal Act by omitting subsection 10.(2) which would have provided for the repeal of section 20A of the *Parliamentary Contributory Superannuation Act 1948*, which provides for the recognition of State and Territory parliamentary service.

Clause 40 - Reduction of benefits by reason of membership of State Parliament or the Northern Territory Legislative Assembly

92. Clause 40 amends section 11 of the Principal Act by omitting subsection 11.(2) which would have omitted section 21 of the *Parliamentary Contributory Superannuation Act 1948*, which relates to the reduction of benefits because of State and Northern Territory parliamentary service.

Clause 41 - Repeal of section 12

93. Clause 41 provides for the repeal of section 12 of the Principal Act which would have allowed for the making of regulations modifying the *Parliamentary Contributory Superannuation Act 1948* in relation to persons with Commonwealth and State or Territory Parliamentary service.

**PART 4 - AMENDMENT OF THE PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION AMENDMENT ACT 1983**

Clause 42 - Object

94. Clause 42 states that the object of Part 4 is to repeal unproclaimed amendments which have been superseded by amendments contained in Division 5 of Part 2 of this Act.

Clause 43 - Principal Act

95. Clause 43 provides that the Principal Act for the purposes of this Part means the *Parliamentary Contributory Superannuation Amendment Act 1983*.

Clause 44 - Commencement

96. Clause 44 provides that subsection 2.(3) of the Principal Act, which provides for the commencement of section 10 of the Principal Act, is omitted.

Clause 45 - Repeal of section 10

97. Clause 45 provides for the repeal of section 10 of the Principal Act which made a number of minor amendments to the former invalidity arrangements as a consequence of the provisions of the *Parliamentary Contributory Superannuation Amendment Act 1981* which have been repealed by Part 3 of this Act.