House of Assembly
As passed all stages and awaiting assent.
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South Australia

Parliamentary Superannuation (Scheme for New Members) Amendment Bill 2005

A BILL FOR

An Act to amend the *Parliamentary Superannuation Act 1974* and to make related amendments to the *Parliamentary Remuneration Act 1990*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Parliamentary Superannuation (Scheme for New Members) Amendment Act 2005*.

2—Commencement

(1) Subject to subsection (2), this Act will come into operation on a day to be fixed by proclamation.

(2) Section 47 will be taken to have come into operation on 3 July 2003.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Parliamentary Superannuation Act 1974*

4—Amendment of section 5—Interpretation

(1) Section 5(1)—after the definition of ***child benefit*** insert:

complying superannuation fund has the meaning given by section 45 of the SIS Act;

(2) Section 5(1)—after the definition of ***contribution*** insert:

death insurance benefit is the death insurance to which a PSS 3 member is entitled by virtue of his or her membership of PSS 3;

deferred superannuation contributions surcharge in relation to a member means the amount that the member is liable to pay the Commissioner of Taxation under section 15(6) of the Superannuation Contributions Tax Act;

(3) Section 5(1), definition of ***eligible child***, (a)—delete paragraph (a) and substitute:

(a) of a deceased PSS 1 or PSS 2 member or deceased PSS 1 or PSS 2 member pensioner; or

(4) Section 5(1), definition of ***eligible child***, (b)—delete "member or deceased" and substitute:

PSS 1 or PSS 2 member or deceased PSS 1 or PSS 2

(5) Section 5(1), definitions of ***former new scheme member*** and ***former old scheme member***—delete the definitions and substitute:

former PSS 1 member means a person who was a PSS 1 member immediately before ceasing to be a member;

former PSS 2 member means a person who was a PSS 2 member immediately before ceasing to be a member;

(6) Section 5(1)—after the definition of ***the Fund*** insert:

invalidity insurance benefit is the invalidity insurance to which a PSS 3 member is entitled by virtue of his or her membership of PSS 3;

judge means a judge of the Supreme Court nominated by the Chief Justice to exercise the powers of a judge under this Act;

(7) Section 5(1), definition of ***member***—after "receipt of salary" insert:

but does not include a non-participating member

(8) Section 5(1), definition of ***member pensioner***—after "pension under this Act" insert:

by virtue of being a PSS 1 member or a PSS 2 member

(9) Section 5(1), definitions of ***new scheme member*** and ***new scheme member pensioner***—delete the definitions and substitute:

non-participating member means a member of either House of Parliament who has made an election under section 7E;

(10) Section 5(1), definition of ***notional pension***, (a)—after "to a deceased" insert:

PSS 1 or PSS 2

(11) Section 5(1), definitions of ***old scheme member*** and ***old scheme member pensioner***—delete the definitions

(12) Section 5(1), after the definition of ***prescribed office*** insert:

PSS 1—see section 7C(1);

PSS 2—see section 7C(2);

PSS 3—see section 7C(3);

PSS 1 member means a member of PSS 1—see section 7D(2);

PSS 1 member pensioner means a member pensioner who was a PSS 1 member immediately before ceasing to be a member;

PSS 2 member means a member of PSS 2—see section 7D(3);

PSS 2 member pensioner means a member pensioner who was a PSS 2 member immediately before ceasing to be a member;

PSS 3 member means a member of PSS 3—see sections 7D(4) and 7F;

(13) Section 5(1)—after the definition of ***service*** insert:

SIS Act means the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;

(14) Section 5(1), definition of ***spouse pension***, (b)—after "of a deceased" insert:

PSS 1 or PSS 2

(15) Section 5(1)—after the definition of ***the State*** insert:

Superannuation Contributions Tax Act means the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997* of the Commonwealth;

superannuation salary sacrifice means any salary that a member is sacrificing for the purposes of superannuation under section 4B of the *Parliamentary Remuneration Act 1990*;

surcharge notice means a notice issued by the Commissioner of Taxation under section 15(7) of the Superannuation Contributions Tax Act.

(16) Section 5(3)—after "(as contemplated by section 4A(2) of that Act)" insert:

, the amount of any superannuation salary sacrifice (as contemplated by section 4B of that Act for the relevant period), and the amount of any contribution that the member makes towards the cost of providing an allowance or benefit by way of salary sacrifice (as contemplated by section 6A(2) of that Act)

5—Amendment of section 6—Voluntary and involuntary retirement

(1) Section 6—after subsection (1) insert:

(2) In addition, a former member will be taken to have retired involuntarily if—

(a) at the conclusion of his or her last term of office as a member of the Parliament (the ***preceding term of office***) the former member stood as a candidate for re-election to the same House at the ensuing election but was defeated; and

(b) both at the time of his or her election for the preceding term of office and at the ensuing election the former member was—

(i) endorsed by the same political party; or

(ii) an independent candidate.

(2) Section 6(3)(b)—delete paragraph (b) and substitute:

(b) on the grounds of invalidity or ill health that prevents the member from being able to carry out the duties of office to a reasonable degree;

(3) Section 6(c)—after "subsection (1)" insert:

or (2)

(4) Section 6(4)—delete subsection (4)

6—Amendment of section 7—Computation of service

(1) Section 7—after "the length of a member's service" insert:

for the purposes of PSS 1 or PSS 2

(2) Section 7(d)—delete "unless by virtue of section 20 or 36 that former period of service is to be counted as service for the purposes of this Act" and substitute:

(subject to paragraph (f) and to the operation of section 20)

(3) Section 7(e)—delete "and section 36"

(4) Section 7—after paragraph (e) insert:

(f) actual service may include previous service if so provided by another section of this Act (including a section that made provision as to service before its repeal by the *Parliamentary Superannuation (Scheme for New Members) Amendment Act 2005*).

7—Insertion of sections 7C, 7D, 7E and 7F

After section 7B insert:

7C—Arrangement of schemes

(1) The scheme of superannuation established by this Act in relation to persons who first became members of either House of Parliament of the State before the commencement of the *Parliamentary Superannuation (New Scheme) Amendment Act 1995* (disregarding members who have transferred out of that scheme) will continue as *PSS 1*.

(2) The scheme of superannuation established by virtue of the enactment of the *Parliamentary Superannuation (New Scheme) Amendment Act 1995* will continue as *PSS 2*.

(3) The scheme of superannuation established by virtue of the enactment of the *Parliamentary Superannuation (Scheme for New Members) Amendment Act 2005* will be known as *PSS 3*.

7D—Membership of schemes

(1) In this section—

relevant date means the date of the election held to determine membership of the fifty-first Parliament of the State.

(2) Subject to this section, a member who first became a member of either House of Parliament of the State before the commencement of the *Parliamentary Superannuation (New Scheme) Amendment Act 1995* (other than a member who transferred to PSS 2 by virtue of an election of the kind referred to in subsection (3)(b)) will be a member of PSS 1.

(3) Subject to this section, a member—

(a) who first became a member of either House of Parliament of the State on or after the commencement of the *Parliamentary Superannuation (New Scheme) Amendment Act 1995* and before the relevant date; or

(b) who has made an election in accordance with section 35A of this Act (as enacted by the *Parliamentary Superannuation (New Scheme) Amendment Act 1995* and as repealed by the *Parliamentary Superannuation (Scheme for New Members) Amendment Act 2005*),

will be a member of PSS 2.

(4) A member—

(a) who first becomes a member of either House of Parliament of the State on or after the relevant date; or

(b) who, on or after the relevant date, again becomes a member of either House of Parliament of the State after a break in membership of the Parliament (disregarding for the purposes of this paragraph any case where a member's term comes to an end on the dissolution of the House of which he or she is a member or by virtue of a resignation or expires by the effluxion of time and the member is then returned at the election that next follows that dissolution, resignation or expiry, or any case where a member is returned at a joint sitting in prescribed circumstances),

will be a member of PSS 3.

(5) For the purposes of the cases described in subsection (4)(b)—

(a) a member may be taken to be returned at an election even if the member, at the relevant election, is returned as a member of the House that is the other House to the House of which he or she was a member before the election; and

(b) a member is returned at a joint sitting in prescribed circumstances if (and only if) the member is a person who was a member of the Parliament (and a member of PSS 1 or PSS 2) and who is then chosen under section 13 of the *Constitution Act 1934* to be a member of the Legislative Council within 3 months after the date of an election (for either House of Parliament) so that his or her period of not being a member of Parliament does not exceed 6 months.

(6) Despite a preceding subsection, if—

(a) a PSS 1 or PSS 2 member stands for re-election but is not returned as having been re-elected; and

(b) the Court of Disputed Returns subsequently declares the member to have been duly elected at that election or it declares the election void and the member is elected at the subsequent by-election; and

(c) the member, within 3 months—

(i) after a declaration by the Court that the member has been re-elected; or

(ii) after re-election following a declaration by the Court that the election was void,

or within such further period as the Board (in its absolute discretion) allows, makes an election under subsection (7),

then the member may continue as a member of PSS 1 or PSS 2 (as the case may be).

(7) An election under this subsection—

(a) must be made in writing in a manner determined by the Board; and

(b) subject to any other determination of the Treasurer, must be accompanied by a payment to the Treasurer of—

(i) an amount equal to 11.5 per cent of the salary that was lost by reason of the fact that the member was not returned as elected in the first instance; and

(ii) an amount equal to the amount (if any) paid to the member pursuant to this Act (whether by way of a pension or a lump sum, or both, or by way of a payment pursuant to Part 4 Division 3) following the return made at the original election.

(8) For the purposes of this Act, the period of service of a member who continues as a PSS 1 or PSS 2 member under subsection (6) will be taken to include—

(a) previous service that the member was, at the termination of the member's immediately preceding period of service, entitled to have counted as service under this Act; and

(b) the period during which the member was unable to take his or her seat in Parliament by reason of not being returned as elected in the first instance.

(9) If the Treasurer allows a further period to pay an amount under subsection (7), the Treasurer may impose such conditions (including a condition requiring payment of interest on any outstanding amount) as the Treasurer thinks fit, and the member will not be regarded as having complied with that subsection unless the member complies with those conditions.

(10) The Treasurer may vary or revoke a condition under subsection (9).

(11) If—

(a) a PSS 3 member stands for re-election but is not returned as having been re-elected; and

(b) the Court of Disputed Returns subsequently declares the member to have been duly elected at that election or it declares the election void and the member is elected at the subsequent by-election,

then the member must, in accordance with a determination of the Board, pay to the Treasurer—

(c) an amount equal to the contributions that the member would have paid under Part 3 Division 3 assuming that the member had been returned in the first instance and been liable to make contributions at the rate that applied to the member immediately before the original election; and

(d) an amount equal to the amount (if any) paid to the member pursuant to this Act following the return made at the original election.

(12) When a member makes a payment under subsection (11)(c), the Treasurer must pay into the PSS 3-Government Contributions Division of the Fund, and the Board must credit to the member's Government contribution account, an amount equal to the amount that would have been payable under Part 3 Division 4 assuming that the member had been returned in the first instance and applying such other assumptions as the Board, with the agreement of the Treasurer, determines.

(13) The fact that a former PSS 1 or former PSS 2 member who returns to Parliament then becomes a PSS 3 member under this section does not prejudice any entitlement that he or she may have under this Act with respect to his or her former membership of PSS 1 or PSS 2 before the break in membership of the Parliament.

7E—PSS 3 member may elect to participate in other schemes

(1) In this section—

eligible member means a PSS 3 member, other than a person who is a member of PSS 3 by virtue of section 7D(4)(b) or 7F;

fund includes a scheme or account;

prescribed period, in relation to an eligible member, means the period of 3 months from the date on which the person became a PSS 3 member;

RSA has the same meaning as in the *Retirement Savings Accounts Act 1997* of the Commonwealth;

self managed superannuation fund has the same meaning as in the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;

specified fund means a fund specified in a notice under subsection (4)(a) or (10)(a).

(2) An eligible member may, by notice in writing furnished to the Board during the prescribed period, elect to transfer his or her superannuation arrangements under this Act to a fund that complies with subsection (3).

(3) A fund (a ***complying fund***) complies with this subsection if it is—

(a) a complying superannuation fund, other than a self managed superannuation fund; or

(b) an RSA.

(4) A notice under subsection (2) must—

(a) specify the name of, and contact details for, the relevant fund; and

(b) specify the date from which the election is to take effect, being a date—

(i) that is at least 14 days but not more than 2 months from the date on which the notice is furnished to the Board; and

(ii) that coincides with a date on which salary is due to be paid to the member; and

(c) be accompanied by evidence that the fund will accept contributions under this section; and

(d) contain or be accompanied by such other information (if any) as may be required by the Board.

(5) If a person makes an election under subsection (2)—

(a) the person will cease to be a member of PSS 3; and

(b) the Board will cease to maintain (or, if relevant, will not be required to establish) an account in the name of the person under this Act (and Part 2B will cease to apply in relation to the person); and

(c) any amount standing to the credit of the person's contribution account or Government contribution account (if any) must be carried over to the specified fund; and

(d) the person will cease to be liable to make contributions under this Act; and

(e) no entitlement or benefit will be payable to the person, or to any other person in respect of the person, under this Act (other than as provided by paragraph (f)); and

(f) the Treasurer must, while the person is a member of either House of Parliament, make contributions to the specified fund for that person's benefit, in accordance with subsection (6).

(6) For the purposes of subsection (5)(f), the contributions must be made in accordance with the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth as if the person were an employee of the State (see section 12(5) of that Act) and in order to avoid having an individual superannuation guarantee shortfall in respect of the person within the meaning of that Act.

(7) An eligible member cannot make an election under this section if the Board has been served with a splitting instrument within the meaning of Part 4A in respect of the member's superannuation interest under this Act.

(8) An election under subsection (2) is irrevocable.

(9) However, a person may, by notice in writing furnished to the Board, vary an election under this section so as to select another complying fund for the purposes of this section.

(10) A notice under subsection (9) must—

(a) specify the name of, and contact details for, the new fund; and

(b) be accompanied by evidence that the new fund will accept contributions under this section; and

(c) contain or be accompanied by such other information (if any) as may be required by the Board.

(11) A notice under subsection (9) will take effect on a date determined by the Board after consultation with the person who has furnished the notice.

(12) A person who makes an election under this section does not become, by virtue of any liability under this section, a member of the Southern State Superannuation Scheme.

(13) There can only be 1 fund that applies in relation to a member under this section at any particular time.

(14) If—

(a) a person makes an election under this section; and

(b) the specified fund applying for the purposes of the election—

(i) ceases to exist; or

(ii) ceases to accept contributions under this section; or

(iii) ceases to be a complying fund; and

(c) the person does not, within the prescribed period, vary the election to specify another complying fund for the purposes of this section,

then the Treasurer may, after consultation with the Board, specify another complying fund (which will then be taken to be a fund specified by the person for the purposes of this section).

7F—Special provisions relating to rollovers for PSS 1 and PSS 2 members

(1) The Board must, on application under this section, permit—

(a) a PSS 1 or PSS 2 member for whom an amount of money may be carried over from another superannuation fund or scheme; or

(b) a former PSS 2 member who has a lump sum preserved under Part 4,

to become a PSS 3 member in order to establish a rollover account for the person under this Act.

(2) The following provisions apply in connection with the operation of subsection (1):

(a) in the case of a former PSS 2 member under subsection (1)(b)—the preserved lump sum amount will, when paid into the rollover account, be taken to be a rollover component under Part 4 Division 2A (and will cease to be a preserved amount under another Division of Part 4);

(b) Part 3 Divisions 3 and 4 will not apply to a person who is a PSS 3 member by virtue of this section;

(c) a person who is a PSS 3 member by virtue of this section will not be entitled to any of the following under Part 4 Division 2A:

(i) a Government-funded component of benefits;

(ii) a member-funded component of benefits;

(iii) an invalidity/death insurance benefit;

(d) the Governor may, by regulation, make any other provision as the Governor thinks fit, including by providing that other provisions of this Act do not apply to a person who is a PSS 3 member by virtue of this section, or apply to such a member subject to any modifications prescribed by the regulations.

8—Amendment of section 13—The Fund

(1) Section 13—after subsection (3) insert:

(3a) The Superannuation Funds Management Corporation of South Australia must establish a distinct part of the Fund under the name *PSS 3—Government Contributions Division*.

(2) Section 13(4)(b)—delete paragraph (b) and substitute:

(b) periodic contributions to ensure that the entitlements of PSS 1 and PSS 2 members are fully funded as required; and

(c) any amount that is received by the Treasurer under this Act on account of money carried over from another superannuation fund or scheme and to be paid into a rollover account of a member; and

(d) the contributions required under section 14C (to be held in the PSS 3—Government Contributions Division); and

(e) any amount that is required to be paid to satisfy the payment of an invalidity/death insurance benefit; and

(f) any other amount that must be credited to the Fund by the Treasurer under another provision of this Act.

9—Insertion of section 13AB

After section 13A insert:

13AB—Rollover accounts

(1) The Board must maintain a rollover account in the name of—

(a) a PSS 3 member (including such a member who is also a PSS 1 or PSS 2 member who has made application under section 7F) for whom an amount of money has been carried over from another superannuation fund or scheme; or

(b) a PSS 3 member who is a former PSS 2 member who has made application under section 7F in relation to a preserved amount.

(2) A PSS 3 member's rollover account must be credited with the relevant amount under subsection (1) and must be debited with any payment that is, in pursuance of this Act, to be charged against the account.

(3) The Board may debit against a PSS 3 member's rollover account an administrative charge fixed by the Board.

(4) The Board may, for the purposes of subsection (3), fix different charges depending on the balance of members' accounts or any other relevant factor.

10—Amendment of section 13B—Accretions to members' accounts

(1) Section 13B(1)—after "contribution account" insert:

and rollover account (if any)

(2) Section 13B(2)—delete subsection (2) and substitute:

(2) In determining a rate of return for the purposes of subsection (1), the Board should have regard to—

(a) the net rate of return achieved by investment of the Fund over the relevant financial year; and

(b) if a PSS 3 member has made a nomination under subsection (2a), the net rate of return achieved by the classes of investments, or the combination of classes of investments, nominated by the member.

(2a) If the Fund is invested in different classes of investments, the Board must permit a PSS 3 member, on such terms and conditions as the Board thinks fit, to nominate the class of investments, or combination of classes of investments, for the purpose of determining the rate of return under this section.

(2b) A PSS 3 member cannot nominate a class of investments, or a combination of classes of investments, under subsection (2a) if he or she does not at the same time nominate the same class or combination of classes of investments under section 14D(4) (unless he or she is a PSS 3 member by virtue of section 7F).

(3) Section 13B(3)—delete "subsection (2)(b)" and substitute:

subsection (2)(a)

11—Insertion of section 13C

After section 13B insert:

13C—Rollover of money from other funds or schemes

Money that is rolled over to PSS 3 from another superannuation fund or scheme must be paid to the Treasurer.

12—Substitution of Part 3

Part 3—delete the Part and substitute:

Part 3—Contributions

Division 1—Preliminary

14—Preliminary

Every member is liable to make contributions to the Treasurer in accordance with this Act.

Division 2—Contributions by members of PSS 1 or PSS 2

14A—Contributions by members of PSS 1 or PSS 2

(1) Subject to subsection (2), the contributions payable by PSS 1 or PSS 2 members will be 11.5 per cent of the basic salary and additional salary (if any) payable to each member and must be deducted by the Treasurer when paying salary to members.

(2) The contribution payable by a PSS 1 or PSS 2 member whose period of service as a member of Parliament is equal to or exceeds 20 years and 1 month is 5.75 per cent of the member's basic salary and 11.5 per cent of the member's additional salary (if any).

Division 3—Contributions by members of PSS 3

14B—Contributions by members of PSS 3

(1) Subject to this Act, a PSS 3 member may elect to make contributions to the Treasurer at 1 of the following percentages of the combined value of the basic salary and additional salary (if any) payable to the member and must be deducted by the Treasurer when paying salary to the member:

0%

1%

2%

3%

4%

4.5%

5%

6%

7%

8%

9%

10%

(2) A PSS 3 member may, from time to time, elect to vary a rate of contribution under subsection (1).

(3) An election under subsection (2) must be made to the Board in writing and will operate from a date to be fixed by the Board.

(4) In addition, a PSS 3 member may make additional monetary contributions to the Treasurer under this subsection that are not related to the member's salary.

(5) The amount of each contribution under subsection (4) must be equal to or exceed the amount prescribed by the regulations for the purposes of subsection (4).

Division 4—Government contributions with respect to PSS 3

14C—Government contributions

(1) Within 7 days after basic salary and additional salary (if any) is paid to a PSS 3 member, the Treasurer must pay into the PSS 3—Government Contributions Division of the Fund an amount calculated as follows:

$$A = S \ X \ \frac{CP}{100}$$

A is the amount to be paid.

S is the amount of basic salary and additional salary (if any) paid to (or in relation to) the member (including the amount of any salary sacrifice under the *Parliamentary Remuneration Act 1990* that applies for the relevant period).

CP is—

(a) in the case of a member whose superannuation contribution rate for (or in relation to) the period to which the salary relates is a rate that is less than 4.5%—9;

(b) in the case of a member whose superannuation contribution rate for (or in relation to) the period to which the salary relates is a rate that is equal to or greater than 4.5%—10.

(2) In addition, if a PSS 3 member has elected to make a superannuation salary sacrifice that applies in relation to the relevant period, the Treasurer must pay into the PSS 3—Government Contributions Division of the Fund the amount so sacrificed.

14D—Government contribution accounts

(1) The Board must maintain Government contribution accounts in the names of all PSS 3 members.

(2) A PSS 3 member's Government contribution account must be credited with amounts that are equivalent to the amounts paid under section 14C in respect of the member.

(3) At the end of each financial year, each PSS 3 member's Government contribution account will be adjusted to reflect a rate of return determined by the Board—

(a) having regard to the net rate of return achieved by investment of the PSS 3—Government Contributions Division of the Fund over the relevant financial year; and

(b) if the member has made a nomination under subsection (4), having regard to the net rate of return on the nominated class of investments, or combination of classes of investments, determined by the Board under section 13B(2)(b).

(4) If the PSS 3—Government Contributions Division of the Fund is invested in different classes of investments, the Board must permit a PSS 3 member, on such terms and conditions as the Board thinks fit, to nominate the class of investments, or combination of classes of investments, for the purpose of determining the rate of return under subsection (3).

(5) A PSS 3 member cannot nominate a class of investments, or a combination of classes of investments, under subsection (4) if he or she does not at the same time nominate the same class or combination of classes of investments under section 13B(2a) (and any variation of a nominated class under that section will then have effect for the purposes of this section).

(6) If, when the Government component is to be paid under Part 4 Division 2A with respect to a PSS 3 member, the rate of return for the relevant financial year has not been determined under this Act, the rate of return will be equivalent to the rate of return on investments of the PSS 3—Government Contributions Division of the Fund estimated by the Board for that year (and there will be no adjustment when the rate of return is subsequently determined).

(7) An administrative charge to be fixed by the Board must be debited against the Government contribution accounts of PSS 3 members (and different charges may be fixed depending on the balance of members' accounts, the level of invalidity/death insurance benefit that may apply to members under this Act, or any other relevant factor).

(8) A charge to be fixed by the Board may also be debited against the Government contribution account of a PSS 3 member who, after nominating a class of investments under subsection (4), subsequently varies the nomination.

(9) A reference in this section to "rate of return" is a reference to a positive or a negative rate of return.

13—Insertion of section 15

Before section 16 insert:

15—Application of Division

This Division applies in relation to PSS 1 and PSS 2 members.

14—Amendment of section 16—Entitlement to a pension on retirement

Section 16—After "A former" insert:

PSS 1 or PSS 2

15—Amendment of section 17—Amount of pension for PSS 1 member pensioners

(1) Section 17(1)—delete "old scheme" and substitute:

PSS 1

(2) Section 17(2)—delete "old scheme" and substitute:

PSS 1

16—Amendment of section 17A—Amount of pension for PSS 2 member pensioners

(1) Section 17A(1)—delete "new scheme" and substitute:

PSS 2

(2) Section 17A(2)(a)—delete "new scheme" and substitute:

PSS 2

(3) Section 17A(2)—delete "new scheme" and substitute:

PSS 2

(4) Section 17A(6)—delete "new scheme" and substitute:

PSS 2

17—Amendment of section 18—Invalidity retirement

(1) Section 18(1)—after "Where a" insert:

PSS 1 or PSS 2

(2) Section 18(1)—after "invalidity" insert:

that prevents the member from being able to carry out the duties of office to a reasonable degree

(3) Section 18(3)—delete subsection (3)

18—Amendment of section 19—Reduction of pension in certain circumstances

Section 19(2a)—delete "new scheme" and substitute:

PSS 2

19—Amendment of section 19A—Preservation of pension in certain cases

Section 19A—after subsection (3) insert:

(4) Section 19(1) will not apply in relation to a pension payable under subsection (3)(a).

20—Amendment of section 20—Suspension of pension

(1) Section 20(1)—delete "shall cease and determine" and substitute:

will be suspended during the period for which the member is again a member of the Parliament (and will then become payable again after he or she ceases to be a member of the Parliament on the basis of his or her previous service)

(2) Section 20(2)—delete subsection (2)

21—Amendment of section 21—Commutation of pension

(1) Section 21(1)—delete "old scheme" and substitute:

PSS 1

(2) Section 21(1a)—delete "new scheme" and substitute:

PSS 2

22—Amendment of section 21A—Application of section 21 to certain member pensioners

Section 21A—delete "old scheme" and substitute:

PSS 1

23—Amendment and relocation of section 21AA—Commutation to pay deferred superannuation contributions surcharge—pension entitlements

(1) Section 21AA(1)—delete "old scheme or new scheme" and substitute:

PSS 1 or PSS 2

(2) Section 21AA(3)(a)(i)—delete "an old scheme or new scheme member, or a former old scheme or new scheme" and substitute:

a PSS 1 or PSS 2 member, or a former PSS 1 or PSS 2

(3) Section 21AA(3)(a)(ii)—delete "old scheme or new scheme" and substitute:

PSS 1 or PSS 2

(4) Section 21AA(8), definition of ***deferred superannuation contributions surcharge***—delete the definition

(5) Section 21AA—redesignate the section as amended by this section as section 23AA and relocate the section so that it follows section 23 of the Act (as substituted by this Act)

24—Insertion of Part 4 Division 2A

After Part 4 Division 2 insert:

Division 2A—Superannuation benefits for PSS 3 members

21AB—Application of Division

This Division applies in relation to PSS 3 members.

21AC—Interpretation

In this Division—

Government-funded component in relation to a member (other than a member who is a PSS 3 member by virtue of section 7F) means the amount standing to the credit of the member's Government contribution account;

member-funded component in relation to a member (other than a member who is a PSS 3 member by virtue of section 7F) means the amount standing to the credit of the member's contribution account;

rollover component in relation to a member means the amount standing to the credit of the member's rollover account.

21AD—Retirement at or above age 55

(1) A PSS 3 member who—

(a) has retired (either voluntarily or involuntarily); and

(b) has reached the age of 55 years,

is entitled to payment of the member-funded component and the Government-funded component and to payment of the rollover component (if any) to the extent that that payment can be made in accordance with the SIS Act.

(2) Subject to subsection (3), a PSS 3 member who does not apply to the Board in writing for the payment of an entitlement under subsection (1) within 3 months after retirement will be taken to have preserved the relevant components and section 21AF will apply to and in relation to them.

(3) A PSS 3 member who has retired and reached the age of 65 years must immediately be paid any entitlement under subsection (1).

(4) However, a rollover component, or part of a rollover component, that cannot be paid in accordance with the SIS Act must be preserved and section 21AF will apply to and in relation to it.

(5) This section does not apply to or in relation to a case involving the death of a PSS 3 member (see section 21AH) and does not derogate from the ability of a member to apply for a benefit under section 21AG (rather than taking a benefit under this section).

21AE—Cessation of membership before age 55

(1) Subject to this section, a PSS 3 member who retires (either voluntarily or involuntarily) before reaching the age of 55 years may—

(a) elect—

(i) to take immediately the member-funded component; or

(ii) to preserve the member-funded component; or

(iii) to carry the member-funded component over to another superannuation fund or scheme that is a complying superannuation fund (as a preserved employee component); and

(b) elect—

(i) to preserve the Government-funded component; or

(ii) to carry the Government-funded component over to another superannuation fund or scheme that is a complying superannuation fund (as a preserved employer component); and

(c) elect—

(i) to take immediately the rollover component (if any) to the extent that payment of that component can be made in accordance with the SIS Act; or

(ii) to preserve the rollover component; or

(iii) to carry the rollover component over to another superannuation fund or scheme that is a complying superannuation fund.

(2) A PSS 3 member who does not inform the Board in writing of his or her election under subsection (1) within 3 months after ceasing to be a member will be taken to have elected to preserve the relevant components and section 21AF will apply to and in relation to them.

(3) If the Board is of the opinion that the limitation period referred to in subsection (2) would unfairly prejudice a member, the Board may extend the period that applies to the member.

(4) A PSS 3 member who has elected, or has been taken to have elected, to preserve his or her member-funded component, Government-funded component or rollover component and to whom the component has not been paid under section 21AF, may elect to withdraw the election and to elect to carry the component over to a complying superannuation fund.

(5) If 2 or 3 components have been preserved, a member cannot make an election under subsection (4) to carry 1 or 2 but not both or all of them over.

(6) If a member elects to carry over a component to a complying superannuation fund, the following provisions apply:

(a) the member must satisfy the Board by such evidence as it may require that he or she has been admitted to membership of the fund; and

(b) on being so satisfied the Board will authorised payment of the component on behalf of the member to the fund.

(7) If a PSS 3 member has ceased to be a member of the Parliament of the State and has elected to preserve the member-funded, Government-funded or rollover component but has subsequently again become a member of the Parliament, the Board may maintain separate member's contribution accounts or Government contribution accounts or rollover accounts or a combined member's contribution account or Government contribution account or rollover account in the name of the member.

(8) This section does not apply to or in relation to a case involving—

(a) a cessation of membership on the ground of invalidity (in circumstances entitling the member to a benefit under section 21AG); or

(b) the death of a PSS 3 member (see section 21AH).

21AF—Preservation of components

(1) If a superannuation component has been preserved under section 21AD(2) or (4) or 21AE, then the following provisions will apply (subject to subsection (2)):

(a) the Board must in relation to a component preserved under section 21AE, not less than 6 months before the relevant member's 55th birthday (unless that period has already been reached), notify the relevant member in writing of his or her entitlement to require the Board to make a payment under paragraph (b);

(b) the relevant member may at any time after reaching 55 years of age require the Board to authorise payment of the component and, if no such requirement has been made on or before the date on which the member reaches 65 years of age, the Board will authorise payment of the component to the member;

(c) if the relevant member has become incapacitated and satisfies the Board that his or her incapacity for all kinds of work is 60 per cent or more of total incapacity and is likely to be permanent, the Board will authorise payment of the component to the member;

(d) if the relevant member dies, the component will be paid to the spouse of the deceased member or, if he or she left no surviving spouse, to the member's estate,

(and a payment under any of the above paragraphs excludes further rights so that a claim cannot be subsequently made under some other paragraph).

(2) Subsection (1) applies to a rollover component subject to restrictions imposed by the SIS Act.

21AG—Cessation of membership on ground of invalidity

(1) If—

(a) a PSS 3 member ceases to be a member of the Parliament of the State before reaching the age of 70 years; and

(b) a judge is satisfied that the cessation is due to ill health that prevents the member from being able to carry out the duties of office to a reasonable degree,

then the member is entitled to benefits made up of the following components:

(c) the member-funded component; and

(d) the Government-funded component; and

(e) the rollover component (if any); and

(f) subject to this section, the invalidity insurance benefit (if any) for PSS 3 members (see section 21AI).

(2) The invalidity insurance benefits are not payable unless the Board is satisfied that the member's incapacity for all kinds of work is 60 per cent or more of total incapacity and is likely to be permanent.

(3) The invalidity insurance benefit is not payable to a member within 1 year after becoming a PSS 3 member unless the Board is satisfied (by the production of such evidence as the Board thinks fit) that—

(a) the invalidity is attributable to a medical condition arising after the member became a PSS 3 member and is not attributable (or is not attributable in any material degree) to a medical condition existing before the member became a PSS 3 member; or

(b) the invalidity is attributable to a medical condition existing before the member became a PSS 3 member in a situation where, at the time of becoming a PSS 3 member, there was no reason for the member to believe that such a condition existed; or

(c) the invalidity was caused by accidental injury.

(4) A member who claims to be entitled to benefits under this section (or a person acting on his or her behalf) must make the claim (being a claim for benefits that have not otherwise been paid) to the Board within 3 months after ceasing to be a member of the Parliament of the State.

21AH—Death of PSS 3 member

(1) If a PSS 3 member ceases to be a member of the Parliament of the State by reason of his or her death—

(a) if the deceased member is survived by a spouse—a payment will be made to the spouse;

(b) if the deceased member is not survived by a spouse—a payment will be made to the member's estate.

(2) A payment under subsection (1)(a) or (b) is to be made up of the following components:

(a) the member-funded component; and

(b) the Government-funded component; and

(c) the rollover component (if any); and

(d) subject to this section, the death insurance benefit (if any).

(3) A surviving spouse will not be entitled to a benefit under this section if section 23J applies to the spouse.

(4) The death insurance benefit is not payable in respect of a member who dies within 1 year after becoming a PSS 3 member unless the Board is satisfied (by the production of such evidence as the Board thinks fit) that—

(a) the death is attributable to a medical condition arising after the member became a PSS 3 member and is not attributable (or is not attributable in any material degree) to a medical condition existing before the member became a PSS 3 member; or

(b) the death is attributable to a medical condition existing before the member became a PSS 3 member in a situation where, at the time of becoming a PSS 3 member, there was no reason for the member to believe that such a condition existed; or

(c) death was caused by accidental injury.

(5) If a PSS 3 member who has died is not survived by a spouse and probate or letters of administration in relation to the deceased's estate have not been granted to any person, the Board may use the amount payable under this section, or such part of it as is required, to pay the funeral expenses of the deceased member or to reimburse a person who has paid those expenses.

(6) If—

(a) a PSS 3 member ceases to be a member of the Parliament of the State for any reason other than his or her death; and

(b) the member dies within 1 month after that cessation,

the member's spouse or estate is entitled to the death insurance benefit (if any) that the spouse or estate would have been entitled to if the member had ceased to be a member of Parliament by virtue of the member's death unless—

(c) an invalidity insurance benefit has been paid; or

(d) the member has taken his or her own life.

21AI—Determination of invalidity/death insurance

(1) For the purposes of this Division, a PSS 3 member is entitled to the following level of invalidity/death insurance by virtue of his or her membership of PSS 3:

$$B = F\left(BS + \frac{AS}{4}\right) - GCA$$

B is the amount of benefit.

F is—

(a) in the case of a PSS 3 member who has not reached the age of 66 years at the relevant time—5;

(b) in the case of a PSS 3 member who is 66 years of age at the relevant time—4;

(c) in the case of a PSS 3 member who is 67 years of age at the relevant time—3;

(d) in the case of a PSS 3 member who is 68 years of age at the relevant time—2;

(e) in the case of a PSS 3 member who is 69 years of age at the relevant time—1;

(f) in the case of a PSS 3 member who has reached the age of 70 years at the relevant time—0.

BS is the member's basic salary at the relevant time (expressed as an annual salary).

AS is—

(a) in the case of a member who has held a prescribed office at any time—an amount arrived at by taking the rate of remuneration for the highest prescribed office that the member held, being the rate applying to the holder or holders of such an office immediately before the relevant time, and—

(i) in the case of a member who held prescribed offices for a total period exceeding 4 years, or who held any prescribed office immediately before the relevant time—applying that rate over a period of 4 years;

(ii) in any other case—applying that rate over the period or periods over which the member held any prescribed office before the relevant time;

(b) in any other case—0.

GCA is the amount standing to the credit of the member's Government contribution account at the relevant time, less any amount credited to that account due to superannuation salary sacrifice payments under section 14C(2).

(2) For the purposes of subsection (1), the ***relevant time*** is—

(a) in the case of invalidity insurance—the date on which the relevant member ceases to be a member of the Parliament of the State;

(b) in the case of death insurance—the date on which the relevant member dies or, if the relevant member died after leaving the Parliament of the State (see section 21AH(6)), the date on which he or she ceased to be a member of the Parliament of the State.

(3) If an entitlement under this section would be a negative number (or zero), there is no entitlement.

25—Substitution of heading to Part 4 Division 3

Heading to Part 4 Division 3—delete the heading to Division 3 and substitute:

Division 3—Related Matters

26—Amendment of section 22—Other benefits under PSS 1

Section 22—delete "an old scheme" and substitute:

a PSS 1

27—Amendment of section 22A—Other benefits under PSS 2

(1) Section 22A(1)—delete "new scheme" and substitute:

PSS 2

(2) Section 22A(1)(a)—delete paragraph (a) and substitute:

(a) a lump sum made up of an employee component and a Government-funded component;

(3) Section 22A(2)(b)—delete "employer" and substitute:

Government-funded

(4) Section 22A(2)(b)(ii)—delete "employer" and substitute:

Government-funded

(5) Section 22A(4)(b)—delete "employer" and substitute:

Government-funded

(6) Section 22A(4a)—delete "employer" and substitute:

Government-funded

(7) Section 22A(4c)—delete "employer" and substitute:

Government-funded

(8) Section 22A(5a)—delete "employer" and substitute:

Government-funded

28—Substitution of section 23

Section 23—delete the section and substitute:

23—Pension paid for limited period

(1) If—

(a) a PSS 1 or PSS 2 member ceases to be a member of the Parliament of the State; and

(b) either immediately or after a period of preservation of the former member's benefits—

(i) a pension is paid under this Act to the former member; or

(ii) a pension is paid under this Act to the former member and then, on his or her death, a pension is paid under this Act to his or her spouse; or

(iii) the cessation of membership is by reason of his or her death and a pension is paid under this Act to his or her spouse; or

(iv) the former member dies after a period of preservation before receiving a pension and a pension is paid under this Act to his or her spouse; and

(c) the pension, or the last of the pensions to be payable, ceases before the expiration of the period of 4.5 years after the pension, or the first of the pensions, commenced and no actual or prospective right to a pension exists and no other benefit is payable under this Act,

an amount determined in accordance with subsection (2) is payable to the former member's estate.

(2) The amount referred to in subsection (1) is the amount of the pension or pensions that would have been payable to, or in relation to, the former member during the period referred to in subsection (1)(c) if the pension or pensions had not ceased, reduced by—

(a) the amount of the lump sum, or the aggregate of the lump sums, (if any) paid on commutation of the pension or pensions; and

(b) the amount of the pension or pensions actually paid to, or in relation to, the former member.

(3) When computing the amount of the pension or pensions that would have been payable during the period referred to in subsection (1)(c)—

(a) it will be assumed that the pension or pensions were not reduced by commutation; and

(b) the provisions of this Act for indexation of pensions will be ignored.

(4) For the purposes of this section, if the cessation under subsection (1)(a) relates to a PSS 1 or PSS 2 member who had been a member of the Parliament, then ceased to be a member and then, after a period of time, returned as a member and has again ceased to be a member, then any previous cessation of service, and any previous benefits paid on account of that cessation, will be disregarded.

29—Insertion of sections 23AAB, 23AAC and 23AAD

After section 23 (as substituted by section 28) and section 23AA (as relocated by section 23) insert:

23AAB—Commutation to pay deferred superannuation contributions surcharge—lump sum entitlements

(1) In this section—

prescribed member means—

(a) a former PSS 2 member who has an amount preserved under this Part by virtue of his or her membership of PSS 2; or

(b) a PSS 3 member, or a former PSS 3 member.

(2) A prescribed member who is liable for a deferred superannuation contributions surcharge as a result of a benefit becoming payable to the prescribed member may apply to the Board, in accordance with this section—

(a) to receive part of the benefit in the form of a commutable pension; and

(b) to fully commute the pension.

(3) A prescribed member who has become entitled to a benefit, or will shortly become entitled to a benefit, may—

(a) estimate the amount of the surcharge the prescribed member will become liable to pay (the ***estimated surcharge amount***); and

(b) request the Board, in the approved form, to—

(i) withhold from the prescribed member's benefit an amount equal to the estimated surcharge amount (the ***withheld amount***); and

(ii) pay the balance of the benefit to the prescribed member (being, in the case of a benefit to which the prescribed member is yet to become entitled, a payment after the entitlement arises),

and the Board must, subject to subsection (5), comply with the prescribed member's request.

(4) If a prescribed member has made a request under subsection (3)(b), the prescribed member must, before the expiration of 2 months following the issue of a surcharge notice in respect of the prescribed member, advise the Board in the approved form that the notice has been issued and the Board must, within 7 days of receiving that advice—

(a) convert into a pension—

(i) if the amount of the surcharge payable by the prescribed member is less than the withheld amount—a portion of the withheld amount equal to the amount payable; or

(ii) in any other case—the whole of the withheld amount; and

(b) immediately after converting the withheld amount, or a portion of the withheld amount, into a pension under paragraph (a)—commute the pension; and

(c) pay to the prescribed member—

(i) the lump sum resulting from the commutation of the pension; and

(ii) the balance (if any) of the withheld amount.

(5) The Board may reject an application under subsection (2) if—

(a) it is not satisfied that, if the application were accepted, the resulting lump sum will be applied in payment of the surcharge; or

(b) the prescribed member fails to satisfy the Board that the prescribed member has, or will have, a surcharge liability to the Commissioner of Taxation.

(6) The factors to be applied in—

(a) the conversion of a withheld amount (or part of a withheld amount) into a pension; and

(b) the commutation of a pension,

will be determined by the Treasurer on the recommendation of an actuary.

23AAC—Commutation to pay deferred superannuation contributions surcharge following death of member

(1) In this section—

prescribed member has the same meaning as in section 23AAB.

(2) If a prescribed member who is liable for a deferred superannuation contributions surcharge dies—

(a) having made a request of the Board under section 23AAB for part of his or her benefit to be withheld but before receiving a surcharge notice; or

(b) having received a surcharge notice but before requesting commutation of his or her pension under section 23AAB,

the prescribed member's spouse or, if the prescribed member is not survived by a spouse, the prescribed member's legal representative, may, before the expiration of the period of 2 months immediately following the prescribed member's death or the issue of the surcharge notice (whichever is the later), apply to the Board—

(c) to receive the amount withheld by the Board on behalf of the deceased prescribed member under section 23AAB in the form of a commutable pension; and

(d) to fully commute the pension.

(3) The Board must, on receipt of an application under subsection (2)—

(a) convert into a pension—

(i) if the amount of the surcharge payable by the spouse or estate is less than the withheld amount—a portion of the withheld amount equal to the amount payable; or

(ii) in any other case—the whole of the withheld amount; and

(b) immediately after converting the withheld amount, or a portion of the withheld amount, into a pension under paragraph (a)—commute the pension; and

(c) pay to the spouse or estate—

(i) the lump sum resulting from the commutation of the pension; and

(ii) the balance (if any) of the withheld amount.

(4) If a prescribed member dies without having made a request under section 23AAB, the prescribed member's spouse or, if the prescribed member is not survived by a spouse, the prescribed member's legal representative, may—

(a) estimate the amount of the surcharge the spouse or estate will become liable to pay (the ***estimated surcharge amount***); and

(b) request the Board, in the approved form, to—

(i) withhold from the spouse's benefit or the benefit payable to the estate an amount equal to the estimated surcharge amount (the ***withheld amount***); and

(ii) pay the balance of the benefit to the spouse or estate,

and the Board must, subject to subsection (7), comply with the request.

(5) An application under subsection (4) must be made in writing to the Board before payment of the benefit to the spouse or legal representative.

(6) The spouse or legal representative must, before the expiration of 2 months following the issue of a surcharge notice in respect of the member, advise the Board in the approved form that the notice has been issued and the Board must, within 7 days of receiving that advice—

(a) convert into a pension—

(i) if the amount of the surcharge payable by the spouse or estate is less than the withheld amount—a portion of the withheld amount equal to the amount payable; or

(ii) in any other case—the whole of the withheld amount; and

(b) immediately after converting the withheld amount, or a portion of the withheld amount, into a pension under paragraph (a)—commute the pension; and

(c) pay to the spouse or estate—

(i) the lump sum resulting from the commutation of the pension; and

(ii) the balance (if any) of the withheld amount.

(7) The Board may reject an application under subsection (2) or (4) if it is not satisfied that, if the application were accepted, the resulting lump sum will be applied in payment of the surcharge or be used to reimburse the deceased prescribed member's estate, or the spouse or other person who has paid the surcharge on behalf of the estate.

(8) The factors to be applied in—

(a) the conversion of a withheld amount (or part of a withheld amount) into a pension; and

(b) the commutation of a pension,

will be determined by the Treasurer on the recommendation of an actuary.

(9) In this section—

legal representative, in relation to a deceased prescribed member, means a person—

(a) holding office as executor of the will of the deceased prescribed member where probate of the will has been granted or resealed in South Australia or any other State or a Territory; or

(b) holding office in South Australia or any other State or a Territory as administrator of the estate of the deceased prescribed member.

23AAD—Withheld amount

An amount withheld under section 23AAB or 23AAC—

(a) must be retained in the PSS 3—Government Contributions Division of the Fund; and

(b) will be credited with interest at the rate of return determined by the Board under section 14D(3); and

(c) may be paid to the prescribed member (or the prescribed member's spouse or legal representative)—

(i) in accordance with section 23AAB or 23AAC; or

(ii) at the direction of the Board if the Board—

(A) has not, within 2 years of withholding the amount, received advice that a surcharge notice has been issued in respect of the prescribed member; or

(B) considers, at any time, there is other good reason for doing so.

30—Amendment of section 23B—Interpretation

Section 23B, definition of ***SIS Act***—delete the definition

31—Amendment of section 23C—Accrued benefit multiple

Section 23C(1)—after "superannuation interest of a" insert:

PSS 1 or PSS 2

32—Amendment of section 23D—Value of superannuation interest

Section 23D(1)—after "value of any superannuation interest" insert:

of a PSS 1 or PSS 2 member

33—Amendment of section 23E—Non-member spouse's entitlement

(1) Section 23E(2)—after "on the Board" insert:

and the member spouse is a PSS 1 or PSS 2 member

(2) Section 23E(3)—after "non-member spouse's interest" insert:

with respect to PSS 1 or PSS 2

(3) Section 23E—after subsection (3) insert:

(4) The value of the non-member spouse's interest with respect to PSS 3 will be determined by reference to the provisions of the instrument but in any event may not exceed the value of the member spouse's interest.

34—Substitution of section 23J

Section 23J—delete the section and substitute:

23J—Benefit not payable to spouse on death of member if split has occurred

If a member or former member dies and is survived by a spouse who—

(a) has received, is receiving or is entitled to receive a benefit under a splitting instrument; or

(b) is, under the terms of a splitting instrument, not entitled to any amount arising out of the member's superannuation interest under this Act (or any proportion of such an interest),

the spouse is not entitled to a benefit under this Act in respect of the deceased member (except in accordance with the instrument) and will not be considered to be a spouse of the deceased person for the purposes of section 36A (if relevant).

35—Amendment of section 24—Pension for spouse of deceased PSS 1 member pensioner

Section 24(1)—delete "old scheme" and substitute:

PSS 1

36—Amendment of section 25—Pension for spouse of deceased PSS 1 member

Section 25(1)—delete "old scheme" and substitute:

PSS 1

37—Amendment of section 25A—Pension for spouse of PSS 2 member pensioner

Section 25A(1)—delete "new scheme" and substitute:

PSS 2

38—Amendment of section 25B—Pension for spouse of deceased PSS 2 member

Section 25B(1)—delete "new scheme" and substitute:

PSS 2

39—Amendment of section 25C—Interpretation

Section 25C(2)—delete subsection (2)

40—Insertion of section 26AAB

Before section 26A insert:

26AAB—Application of Division

This Division applies in relation to members (or former members) of PSS 1 or PSS 2.

41—Substitution of heading to Part 5A

Heading to Part 5A—delete the heading and substitute:

Part 5A—Benefit payable to member's estate (PSS 1 or PSS 2)

42—Amendment of section 31A—Benefits payable to member's estate (PSS 1 or PSS 2)

Section 31A(1)—delete "member dies" and substitute:

PSS 1 or PSS 2 member dies

43—Repeal of Part 6A

Part 6A—delete the Part

44—Repeal of section 36

Section 36—delete the section

45—Amendment of section 36B—Power to obtain information

(1) Section 36B(1)—delete "new scheme" and substitute:

PSS 2

(2) Section 36B(2)—delete "new scheme" and substitute:

PSS 2

(3) Section 36B(3)—delete "new scheme" and substitute:

PSS 2

46—Amendment of section 37—Payment of benefits

Section 37—after subsection (2) insert:

(3) If a payment made under this Act includes a member-funded component or a rollover component, an amount equivalent to the amount standing to the credit of the member's contribution account or rollover account is to be charged against the appropriate account.

(4) If a payment made under this Act includes a Government-funded component or relates to a superannuation salary sacrifice, the amount of that component is to be charged against the relevant member's Government contribution account.

(5) The Board may close the account of a member or former member if—

(a) he or she has retired (either voluntarily or involuntarily) and is in receipt of a pension under this Act, or no further benefit or amount is payable to, or in relation to, the member or former member under this Act; or

(b) he or she has died (and no further benefit or amount is payable in relation to the member or former member under this Act).

47—Insertion of Schedule 1

After section 40 insert:

Schedule 1—Transitional provision

1—Transitional provision

An amendment made by a provision of the *Statutes Amendment (Equal Superannuation Entitlements for Same Sex Couples) Act 2003* to a provision of this Act that provides for, or relates to, the payment of a pension, lump sum or other benefit to a person on the death of a member, or former member, applies only if the death occurs on or after 3 July 2003.

Part 3—Amendment of *Parliamentary Remuneration Act 1990*

48—Insertion of section 4B

After section 4A insert:

4B—Salary sacrifice for superannuation purposes

(1) In this section—

eligible member means—

(a) a PSS 3 member; or

(b) a non-participating member;

non-participating member means a member of either House of Parliament who has made an election under section 7E of the *Parliamentary Superannuation Act 1974*;

PSS 3 means the scheme of superannuation known as PSS 3 under the *Parliamentary Superannuation Act 1974*;

PSS 3 member means a member of PSS 3 under the *Parliamentary Superannuation Act 1974*, other than a person who is only a member of PSS 3 in order to establish a rollover account under section 7F of that Act;

salary means basic salary and additional salary (if any).

(2) An eligible member may elect to forego a percentage or amount of salary that would otherwise be paid to the member and instead have contributions made—

(a) in the case of a PSS 3 member—to PSS 3;

(b) in the case of a non-participating member—to the complying fund that applies in relation to the member under section 7E of the *Parliamentary Superannuation Act 1974*,

for superannuation purposes.

(3) The election must—

(a) be made in writing; and

(b) be signed by the member; and

(c) be furnished to the Treasurer.

(4) The election must—

(a) subject to subsection (5), specify the percentage or amount of salary that is foregone; and

(b) specify the date from which the election is to have effect, being a date—

(i) that is at least 14 days after the date on which the notice is furnished to the Treasurer; and

(ii) that coincides with a date on which salary is actually due to be paid to the member; and

(c) contain such other information (if any) as is required by the Treasurer.

(5) The amount that may be sacrificed under this section (whether by way of a percentage of salary or an amount of salary), when aggregated with any amount by way of salary sacrifice under section 4A or 6A(2) that applies in relation to the member, cannot exceed 50 per cent of the member's salary.

(6) If an amount of salary is specified, it must be an amount of salary per pay period.

(7) If a member has made an election under this section then, while the election has effect—

(a) the salary to which the member would otherwise be entitled under this Act is reduced in accordance with the terms of the election; and

(b) the Treasurer must make contributions of amounts representing the amount of reduction for the benefit of the member—

(i) in the case of a PSS 3 member—in accordance with section 14C(2) of the *Parliamentary Superannuation Act 1974*;

(ii) in the case of a non-participating member—to the complying fund that applies in relation to the member under section 7E of the *Parliamentary Superannuation Act 1974*.

(8) A member who has made an election under this section may vary the election from time to time in accordance with the regulations.

(9) An election under this section will cease to have effect if—

(a) the member dies; or

(b) the member revokes the election by notice in writing furnished to the Treasurer in accordance with the regulations.

(10) For the purposes of determining a percentage of salary under this section, other than under subsection (5), any amount that may be deducted from salary under section 4A or 6A(2) will be disregarded.

(11) A member who has made an election under this section must—

(a) pay to the Treasurer an administrative charge of an amount fixed by the Treasurer at intervals, and in a manner, specified by the Treasurer; and

(b) if required by the Treasurer, enter into an arrangement specified by the Treasurer under which the member indemnifies the Crown with respect to—

(i) any income tax or other taxation liability whatsoever (including any administrative penalty, fine or other amount) that may become payable pursuant to any relevant taxation legislation or ruling; and

(ii) any other liability that may arise on account of the member's decision to sacrifice salary under this section.

49—Amendment of section 6A—Ability to provide other allowances and benefits

Section 6A(3)—delete subsection (3)

Schedule 1—Transitional provisions

1—Continuity of entitlements

(1) In this clause—

principal Act means the *Parliamentary Superannuation Act 1974*.

(2) A person who was, immediately before the commencement of this clause, an old scheme member pensioner under the principal Act will continue as a PSS 1 member pensioner.

(3) A person who was, immediately before the commencement of this clause, a new scheme member pensioner under the principal Act will continue as a PSS 2 member pensioner.

(4) A reference in the principal Act (as amended by this Act) to a former PSS 1 member will be taken to include a reference to a former old scheme member under the principal Act immediately before the commencement of this clause.

(5) A reference in the principal Act (as amended by this Act) to a former PSS 2 member will be taken to include a reference to a former new scheme member under the principal Act immediately before the commencement of this clause.

(6) A reference in the principal Act (as amended by this Act) to a deceased PSS 1 or PSS 2 member will be taken to include a reference to a deceased old scheme member or a deceased new scheme member (as the case requires) under the principal Act immediately before the commencement of this clause.

2—Other provisions

(1) The Governor may, by regulation, make additional provisions of a saving or transitional nature consequent on the enactment of this Act.

(2) A provision of a regulation made under subclause (1) may, if the regulation so provides, take effect from the commencement of this Act or from a later day.

(3) To the extent to which a provision takes effect under subclause (2) from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person by—

(a) decreasing the person's rights; or

(b) imposing liabilities on the person.

(4) The *Acts Interpretation Act 1915* will, except to the extent of any inconsistency with the provisions of this Schedule (or regulations made under this Schedule), apply to any amendment effected by this Act.