

Version No. 093
Parliamentary Salaries and Superannuation
Act 1968

No. 7723 of 1968

Version incorporating amendments as at 28 August 2007

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Version No. 093

**Parliamentary Salaries and Superannuation
Act 1968**

No. 7723 of 1968

Version incorporating amendments as at 28 August 2007

An Act relating to Parliamentary Salaries and Allowances and
Parliamentary Superannuation and for other purposes.

**BE IT ENACTED by the Queen's Most Excellent Majesty by
and with the advice and consent of the Legislative Council
and the Legislative Assembly of Victoria in this present
Parliament assembled and by the authority of the same as
follows (that is to say):**

PART 1—PRELIMINARY

1 Short title, commencement and division

- (1) This Act may be cited as the **Parliamentary
Salaries and Superannuation Act 1968**.
- (2) The several provisions of this Act shall come into
operation on a day or the respective days to be
fixed by proclamation or successive proclamations
of the Governor in Council published in the
Government Gazette.

* * * * *

Pt 1 (Heading)
inserted by
No. 78/2004
s. 6(1)(a).

* * * * *

S. 1(3)
repealed by
No. 78/2004
s. 6(2).

S. 2
repealed by
No. 9863 s. 2.

3 Definitions

In this Act unless inconsistent with the context or subject-matter—

Assembly means the Legislative Assembly of Victoria;

S. 3 def. of *basic salary* inserted by No. 8663 s. 2, substituted by No. 8687 s. 2, amended by Nos 55/2004 s. 3, 41/2007 s. 3.

basic salary means the amount of the annual allowance by way of salary from time to time payable to Members of the House of Representatives under the law of the Commonwealth less \$5733;

S. 3 def. of *Capital city* repealed by No. 9432 s. 2(1).

* * * * *

Council means the Legislative Council of Victoria;

S. 3 def. of *Deputy Leader of the Opposition* inserted by No. 8530 s. 3(1)(a)(i).

Deputy Leader of the Opposition means the member of the Assembly who is for the time being the Deputy Leader of Her Majesty's Opposition;

S. 3 def. of *District* repealed by No. 9432 s. 2(1).

* * * * *

S. 3 def. of *Leader of the Opposition* inserted by No. 8530 s. 3(1)(a)(ii).

Leader of the Opposition means the member of the Assembly who is for the time being the Leader of Her Majesty's Opposition;

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s. 3

* * * * *

S. 3 def. of *Melbourne Post Office* inserted by No. 8530 s. 3(1)(a)(ii), repealed by No. 9432 s. 2(1).

member means member of the Parliament of Victoria;

President means the President of the Council;

* * * * *

S. 3 def. of *Province* repealed by No. 9432 s. 2(1).

Speaker means the Speaker of the Assembly;

third party means a recognized party which consists of eleven members at least of the Parliament.

S. 3 def. of *third party* inserted by No. 8530 s. 3(1)(a)(iii), amended by Nos 9432 s. 3(a), 22/1996 s. 30.

* * * * *

S. 3A inserted by No. 3/1993 s. 3, repealed by No. 55/2004 s. 4.

Parliamentary Salaries and Superannuation Act 1968
No. 7723 of 1968
Part 2—Parliamentary Salaries and Allowances

S. 6

Pt 1
(Heading)
substituted as
Pt 2
(Heading) by
No. 78/2004
s. 6(1)(b).

**PART 2—PARLIAMENTARY SALARIES AND
ALLOWANCES**

Ss 4, 5
repealed by
No. 8530
s. 3(1)(b).

* * * * *

S. 6
amended by
Nos 8086
s. 3(a), 8530
s. 3(1)(c),
substituted by
No. 8663 s. 3.

6 Salaries and allowances

- (1) Members shall be entitled to be paid—
- (a) a salary at the rate per annum of the basic salary;
 - (b) in the case of a member for the time being holding an office specified in the first column of the Table hereunder, an additional salary and an expense allowance (if any) at the rate per annum, being a percentage of the basic salary, specified opposite the office in the second and third columns respectively of the said Table; and
 - (c) a residential allowance, a travelling allowance, an electorate allowance and an electorate office allowance at the rates prescribed by and in accordance with the regulations.
- (2) The amount of any such additional salary or allowance shall be calculated to the nearest dollar.

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s. 6

TABLE

<i>Office</i>	<i>Additional Salary</i>	<i>Expense Allowance</i>
	% per annum of basic salary	% per annum of basic salary
Premier	100	42
Deputy Premier	85	21
Any other responsible Minister of the Crown	75	18
Leader of the Opposition	75	18
President	65	11
Speaker	65	11
Chairman of Committees in the Council	20	
Chairman of Committees in the Assembly	20	
Deputy Leader of the Opposition	32	6
Leader of the Opposition in the Council	32	6
Leader of the Third Party in the Assembly (unless he or she is also Leader or Deputy Leader of the Opposition or a Minister of the Crown)	32	6
Parliamentary Secretary of the Cabinet	32	6
Chairperson of the Public Accounts and Estimates Committee	20	
Government Whip in the Assembly	18	
Deputy Leader of the Opposition in the Council	18	

S. 6 Table
substituted by
Nos 8086
s. 3(a), 8530
s. 3(1)(c),
amended by
Nos 8877
s. 2(a)(b), 9432
s. 3(b),
substituted by
No. 65/1992
s. 4,
amended by
Nos 29/2000
s. 9(1)(2),
110/2003 s. 62,
4/2007 s. 9.

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<i>Office</i>	<i>Additional Salary</i>	<i>Expense Allowance</i>
	% per annum of basic salary	% per annum of basic salary
Leader of the Third Party in the Council (unless he or she is also Leader or Deputy Leader of the Opposition or a Minister of the Crown)	18	
Parliamentary Secretaries	15	
Chairperson of the Scrutiny of Acts and Regulations Committee	15	
Deputy Leader of the Third Party in the Assembly (unless he or she is also Leader or Deputy Leader of the Opposition or a Minister of the Crown)	14	
Government Whip in the Council, Opposition Whip in the Council or the Assembly and Whip of the Third Party in the Assembly	11	
Chairperson of Joint Investigatory Committee (other than the Public Accounts and Estimates Committee or the Scrutiny of Acts and Regulations Committee) within the meaning of the Parliamentary Committees Act 2003	10	
Chairperson of joint select committee where resolution establishing committee so provides that chairperson is entitled	5	
Deputy chairperson of the Public Accounts and Estimates Committee and deputy chairperson of the Scrutiny of Acts and Regulations Committee	4	

Parliamentary Salaries and Superannuation Act 1968
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s. 7

<i>Office</i>	<i>Additional Salary</i>	<i>Expense Allowance</i>
	% per annum of basic salary	% per annum of basic salary
Whip of the Third Party in the Council	4	
Secretary of the Party forming the Government, the Opposition or the Third Party	4	

7 Computation of salaries and allowances

No. 7227 s. 2.

- (1) Any payment to which any person is entitled under the last preceding section by reason only of being a member of the Council or the Assembly shall be reckoned from and including the day appointed for taking the poll at the election at which he was elected to his seat or in the case of a person elected at a by-election without the taking of a poll from and including the day of that declaration of the election:

Provided that in the case of a member of the Council elected on a periodical election held before the commencement of the period during which he is entitled to hold his seat any such payment shall be reckoned from and including the day on which that period commences.

- (2) Subject to subsections (3) and (4), in the case of any member who immediately before retirement from the Council or the Assembly by effluxion of time or immediately before the dissolution of the Council or the Assembly was a member of the Council or the Assembly, any payment referred to in section 6 is to be reckoned up to but excluding the day appointed for taking the poll at the next following periodical or general election as the case may be.

**S. 7(2)
 substituted by
 No. 4/1996
 s. 64(1).**

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s. 7

S. 7(2A)
inserted by
No. 4/1996
s. 64(1).

(2A) Subject to subsections (3) and (4), in any case other than that specified in subsection (2) any payment referred to in section 6 is to be reckoned up to the day when the member ceases to be a member.

(3) Any payment to a person holding an office under the Crown or in the Parliament shall be reckoned from and including the day upon which he was appointed to the office up to and including the day upon which he ceases to hold such office.

S. 7(4)
amended by
Nos 9432
s. 3(c), 4/1996
s. 64(2),
24/1996 s. 32.

(4) For the purpose of calculating his entitlement under the last preceding section a person who, immediately before a dissolution of the Assembly, holds the office of Leader or Deputy Leader of Her Majesty's Opposition or who holds the office of Leader in the Assembly of a Third Party or who holds the office of the Leader of Her Majesty's Opposition in the Council or who is recognized as Parliamentary Secretary of the Cabinet shall be deemed to continue to hold such office up to but excluding the day appointed for taking the poll at the ensuing general election for the Assembly.

S. 7(5)
inserted by
No. 9432 s. 4.

(5) For the purpose of calculating his entitlement under subsection (2) a person who is a responsible Minister of the Crown or the President or the Speaker shall be deemed to continue to hold office and to be a member so long as he is or is deemed to be a responsible Minister or the Presiding Officer of the Council or the Assembly.

8 Regulations

S. 8
amended by
No. 8086
s. 3(b)(c),
substituted by
Nos 8530
s. 3(1)(d), 8663
s. 4.

- (1) The Governor in Council may make regulations for or with respect to—
- (a) allowances payable under this Part;
 - (b) the calculation of those allowances;
 - (c) the provision of any article, motor vehicle, equipment or service to members;
 - (d) the terms and conditions which are to apply to the provision and use of such articles, motor vehicles, equipment or services;
 - (e) the alteration of the amount of, or the entitlement to, any allowances that would otherwise be payable to a member who is provided with the article, motor vehicle, equipment or service;
 - (f) the calculation and imposition of any contribution which the member is required to make from the salary of the member towards the cost of providing the article, motor vehicle, equipment or service;
 - (g) any other matter or thing which is required or permitted to be prescribed by this Part or necessary to be prescribed to give effect to this Part.
- (1A) The Regulations may apply, adopt or incorporate (with or without modification) the provisions of any document, code, standard, rule, specification or method whether as formulated, issued, prescribed or published at the time the Regulations are made.

S. 8(1)
substituted by
No. 4/1996
s. 64(3).

S. 8(1A)
inserted by
No. 4/1996
s. 64(3).

s. 9

(2) The regulations may provide for allowances for members who hold offices specified in the first column of the Table in section 6 to vary according to the office held and allowances may vary in relation to the area of the electorate represented by a member, the number of electors represented by a member, the place at which a member usually resides or in accordance with any other criteria specified in the regulation.

S. 8(3)
inserted by
No. 3/2003
s. 10(1).

(3) The Parliamentary Allowances Regulations 1992 must be taken to have had effect from the beginning of 30 November 2002 until their revocation as if for the Schedules to those Regulations there had been substituted the Schedules to the Parliamentary Allowances Regulations 2003.

S. 8(4)
inserted by
No. 3/2003
s. 10(1).

(4) The Parliamentary Allowances Regulations 2003 must be taken to have effect, and to have always had effect, as if Schedule 2 to those Regulations contained the following paragraph—

"(c) The following Electoral Province as notified in the Government Gazette of 24 April 1991 as required under the **Electoral Boundaries Commission Act 1982**—

South Eastern".

Ss 8A–8C
inserted by
No. 8530
s. 3(1)(d),
repealed by
No. 8663 s. 4.

* * * * *

No. 6224 s. 36.

9 Application of Consolidated Fund

S. 9(1)
amended by
No. 10087
s. 3(1)(Sch. 1
item 179).

(1) All moneys payable by way of salary or allowance under this Part shall be paid out of the Consolidated Fund which is hereby appropriated accordingly.

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-
- (2) All moneys payable under this Part which are not claimed within three months after they might lawfully be claimed shall revert to the Consolidated Fund.
- (3) Subsection (2) must be taken to have effect, and to have always had effect, in relation to moneys payable under this Part in respect of the period between the beginning of 30 November 2002 and the end of 31 January 2003 as if for the reference to three months there were substituted a reference to six months.

S. 9(2)
amended by
No. 10087
s. 3(1)(Sch. 1
item 179).

S. 9(3)
inserted by
No. 3/2003
s. 10(2).

s. 10

Pt 2
(Heading)
substituted as
Pt 3
(Heading) by
No. 78/2004
s. 6(1)(c).

PART 3—PARLIAMENTARY CONTRIBUTORY SUPERANNUATION FUND

Pt 2 Div. 1
(Heading)
inserted by
No. 22/1996
s. 29(a).

Division 1—Preliminary

10 Definitions

- (1) In this Part unless inconsistent with the context or subject-matter—

S. 10(1) def. of
basic salary
substituted by
No. 9432
s. 2(2).

basic salary means in relation to any period before 30 March 1975 the annual salary payable to a member of the Parliament of Victoria under Part I or any corresponding previous enactment to a person holding the office specified as "any other member of the Council or the Assembly" and in relation to any period commencing on or after that day means basic salary as defined in section 3;

S. 10(1) def. of
child
inserted by
No. 8663
s. 5(a),
substituted by
No. 58/1994
s. 3,
amended by
Nos 4/1996
s. 75(a),
27/2001
s. 5(Sch. 3
item 3.1(b)).

child in relation to a former member who is deceased means a child of himself or herself or of his or her partner other than any child born more than 10 months after his or her death who is—

- (a) under 18 years of age; or
- (b) between the age of 18 and 25 years and in the opinion of the Parliamentary Trustee is a full-time student;

complying superannuation fund means a superannuation entity or a superannuation fund within the meaning of section 10 of the Commonwealth Superannuation Industry (Supervision) Act 1993 which is a complying superannuation fund or a complying approved deposit fund within the meaning of Part IX of the Commonwealth Income Tax Assessment Act 1936;

S. 10(1) def. of *complying superannuation fund* inserted by No. 4/1996 s. 65(a).

domestic partner of a person means a person to whom the person is not married but with whom, in the opinion of the Board, the person is, or was at the time of the person's death, living as a couple on a genuine domestic basis (irrespective of gender);

S. 10(1) def. of *domestic partner* inserted by No. 27/2001 s. 5(Sch. 3 item 3.1(a)).

election means an election for the Council or the Assembly;

Fund means the Parliamentary Contributory Superannuation Fund established and kept under this Part;

net earning rate means in respect of any particular period, and for any particular purpose, the rate of earnings (which may be positive or negative) as determined by the Parliamentary Trustee in respect of the Fund for that period and that purpose and having regard to—

S. 10(1) def. of *net earning rate* inserted by No. 4/1996 s. 65(c).

- (a) the income derived from the investment of the Fund; and
- (b) any realised or unrealised gains or losses in respect of any investments of the Fund; and
- (c) any tax; and
- (d) any other relevant expenses of the Fund; and

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Part 3—Parliamentary Contributory Superannuation Fund

s. 10

- (e) any relevant specified standards; and
- (f) any other matters the Parliamentary Trustee considers relevant;

S. 10(1) def. of *occupational super-annuation standards* inserted by No. 56/1992 s. 3, repealed by No. 4/1996 s. 65(b).

* * * * *

S. 10(1) def. of *partner* inserted by No. 27/2001 s. 5(Sch. 3 item 3.1(a)).

partner of a person means—

- (a) in relation to a person who became entitled to benefits under this Act before the commencement of section 5 of the **Statute Law Amendment (Relationships) Act 2001**—
 - (i) the person's husband, wife, widower or widow; or
 - (ii) a person of the opposite sex who, though not married to the person, in the opinion of the Board lives with the person, or lived with the person at the date of the person's death, on a bona fide domestic basis as the person's husband or wife;
- (b) in any other case—the person's spouse or domestic partner;

S. 10(1) def. of *secretary* substituted by Nos 110/1993 s. 101, 4/1996 s. 65(d).

secretary means a person appointed by the Parliamentary Trustee to be the secretary of the Parliamentary Trustee;

specified standards means standards specified under section 24C;

S. 10(1) def. of *specified standards* inserted by No. 4/1996 s. 65(e).

spouse of a person means a person to whom the person is, or was at the time of the person's death, married;

S. 10(1) def. of *spouse* inserted by No. 8663 s. 5(b), substituted by Nos 110/1993 s. 101, 27/2001 s. 5(Sch. 3 item 3.1(c)).

surchargeable contributions means the surchargeable contributions of a member for a particular financial year worked out in accordance with section 8 of the Commonwealth Superannuation Contributions Tax (Assessment and Collection) Act 1997 and any regulations made under that section that apply in respect of that particular financial year;

S. 10(1) def. of *surchargeable contributions* inserted by No. 29/2000 s. 10.

surcharge debt account means, in relation to a person who is or has been a member, the surcharge debt account kept for that person (while he or she was a member) under section 24D;

S. 10(1) def. of *surcharge debt account* inserted by No. 29/2000 s. 10.

surcharge deduction amount means, in relation to a person—

S. 10(1) def. of *surcharge deduction amount* inserted by No. 29/2000 s. 10.

- (a) who is or has been a member; and
- (b) to or in respect of whom benefits become payable under this Act—

the surcharge deduction amount that is specified in a determination made by the Parliamentary Trustee under section 24D in relation to the person;

trustee means trustee of the Fund.

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Part 3—Parliamentary Contributory Superannuation Fund

s. 10

S. 10(1A)
inserted by
No. 27/2001
s. 5(Sch. 3
item 3.2).

(1A) For the purposes of the definition of "domestic partner" in subsection (1), in determining whether persons are or were domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.

S. 10(2)
amended by
Nos 8663
s. 9(a),
27/2001
s. 5(Sch. 3
item 3.3).

(2) This Part shall apply to and in relation to any person who becomes a member on or after the commencement of this Part and to and in relation to the partner and children of any such person.

(3) For the purposes of this Part a member shall be deemed not to have ceased to be a member by reason only of retirement by effluxion of time or the dissolution of the Council or (as the case may be) retirement by effluxion of time or the dissolution of the Assembly.

S. 10(4)
inserted by
No. 9753
s. 4(1).

(4) For the purposes of this Part, the basic salary shall be deemed not to have been altered by a determination of the Remuneration Tribunal established under the Remuneration and Allowances Tribunals Act 1973 of the Commonwealth as amended from time to time until the period specified in that Act for either House of the Parliament of the Commonwealth to disapprove of the determination has elapsed, but where that period has elapsed and the determination has not been disapproved of by either House of the Parliament the basic salary shall for the purposes of this Part be calculated from the date on which the determination of the Remuneration Tribunal takes effect.

11 Parliamentary Contributory Superannuation Fund

- (1) The Fund called the Parliamentary Contributory Superannuation Fund is continued under this Act.
- (2) The Fund is to be administered by the Parliamentary Trustee in accordance with this Act.
- (3) All investments of the Fund held in the name of the Victorian Superannuation Board immediately before the commencement of section 66 of the **Superannuation Acts (Amendment) Act 1996** are by virtue of this section deemed to be held by the Parliamentary Trustee¹.
- (4) The following are to form part of the Fund—
 - (a) amounts required to be paid into the Fund under this Act;
 - (b) investments specified in subsection (3);
 - (c) income derived from the investment of the Fund;
 - (d) the proceeds of the realisation of any investment of the Fund;
 - (e) any other money or assets which the Parliamentary Trustee determines are to form part of the Fund.
- (5) The Fund is to be invested in accordance with the powers conferred on the Parliamentary Trustee by the **Borrowing and Investment Powers Act 1987**.

S. 11
amended by
Nos 7800
s. 2(1)(a),
13/1987 s. 24,
110/1993
s. 102(1)–(3),
100/1995
s. 10(Sch. 1
item 4.1),
substituted by
No. 4/1996
s. 66.

11A Parliamentary Trustee

- (1) For the purposes of this Act there is established a body corporate called the Parliamentary Trustee.
- (2) The Parliamentary Trustee—
 - (a) has perpetual succession; and
 - (b) has a common seal; and

S. 11A
inserted by
No. 4/1996
s. 66.

s. 11B

- (c) may sue and be sued in its corporate name; and
 - (d) is capable of taking, purchasing, leasing, holding, selling, exchanging and disposing of real and personal property for the purposes of this Act; and
 - (e) may do and suffer all acts and things which a body corporate may by law do and suffer and which are necessary or convenient for the purposes of this Act.
- (3) The common seal of the Parliamentary Trustee—
- (a) can only be attached to a document if the Parliamentary Trustee so resolves; and
 - (b) must be authenticated by the signatures of 2 trustees or a trustee and the secretary.
- (4) The Parliamentary Trustee is to consist of the trustees of the Fund under section 12.

S. 11B
inserted by
No. 4/1996
s. 66.

11B Objectives and duties of the Parliamentary Trustee

- (1) The Parliamentary Trustee must—
- (a) have regard to the interests of persons entitled to benefits from the Fund; and
 - (b) ensure that the assets of the Fund are administered in accordance with this Act; and
 - (c) ensure that the decisions and operations of the Parliamentary Trustee are directed towards achieving its objectives; and
 - (d) ensure that the Parliamentary Trustee has, or has access to, the skills, facilities and resources required to ensure that the Parliamentary Trustee conducts its operations and carries out its duties in an efficient manner.

(2) It is the duty of the Parliamentary Trustee—

- | | |
|--|---|
| (a) establish policies for the administration of the Fund and to adopt strategies for the achievement of those policies; and | S. 11B(2)(a) substituted by No. 94/2005 s. 25(1). |
| (aa) determine, authorise or approve programs for the administration of the Fund; and | S. 11B(2)(aa) inserted by No. 94/2005 s. 25(1). |
| (ab) determine objectives for the investment of money in the Fund; and | S. 11B(2)(ab) inserted by No. 94/2005 s. 25(1). |
| (b) establish and implement strategies for the investment of money in the Fund; and | S. 11B(2)(b) substituted by No. 94/2005 s. 25(1). |
| (ba) to ensure that the Fund is administered in accordance with the Commonwealth Superannuation Contributions Tax (Assessment and Collection) Act 1997 and the Commonwealth Superannuation Contributions Tax Imposition Act 1997 and any regulations under those Acts; and | S. 11B(2)(ba) inserted by No. 84/1998 s. 32(1). |
| (c) subject to subsection (3), to inform members of the Fund about the management and investment of the Fund including making available to members of the Fund at least once in each year a summary of information relating to the management and investment of the Fund. | |
| (2A) In relation to the investment of all or part of the money standing to the credit of the Fund, the Parliamentary Trustee is to be taken to have discharged the duties specified in subsection (2), other than the duty to determine investment objectives under subsection (2)(ab), if in respect of that money— | S. 11B(2A) inserted by No. 94/2005 s. 25(2). |

s. 11B

-
- (a) the Parliamentary Trustee has appointed the Victorian Funds Management Corporation under section 9A of the **Victorian Funds Management Corporation Act 1994** to perform investment related functions on behalf of the Parliamentary Trustee; and
- (b) the terms of the appointment with respect to the investment of money are in accordance with an approval given by the Governor in Council under section 20 of the **Borrowing and Investment Powers Act 1987**.
- (3) In performing its duties under subsection (2)(c) the Parliamentary Trustee must have regard to the need to protect information the disclosure of which could adversely affect the financial position or the commercial or other operations of the Parliamentary Trustee.
- (4) If any provision of the Commonwealth Superannuation Contributions Tax (Assessment and Collection) Act 1997 or the Commonwealth Superannuation Contributions Tax Imposition Act 1997 or of any regulations under those Acts is inconsistent with this Act or any regulations under this Act, the Parliamentary Trustee is to be taken to have complied with this Act or the regulations if the Parliamentary Trustee has complied with the provision of the Commonwealth Superannuation Contributions Tax (Assessment and Collection) Act 1997 or the Commonwealth Superannuation Contributions Tax Imposition Act 1997 or of the regulations under those Acts.

S. 11B(4)
inserted by
No. 84/1998
s. 32(2).

11C Functions and powers of the Parliamentary Trustee

(1) The functions of the Parliamentary Trustee are—

- (a) to administer the Fund and collect contributions; and
- (b) to manage and determine investment objectives for the assets of the Fund so as to achieve optimal risk and return outcomes having regard to—
 - (i) the need to provide for payments out of the Fund; and
 - (ii) the need to exercise reasonable care and prudence so as to maintain the integrity of the Fund; and
- (c) to administer the payment of benefits from the Fund; and
- (d) to make any other payments required to be made in respect of the Fund; and
- (e) to perform such other functions as are conferred or imposed on the Parliamentary Trustee by this Act.

S. 11C inserted by No. 4/1996 s. 66.

S. 11C(1)(b) amended by Nos 74/2000 s. 3(Sch. 1 item 96.1), 94/2005 s. 26.

S. 11C(1)(c) amended by No. 74/2000 s. 3(Sch. 1 item 96.2).

(2) Subject to this Act, the Parliamentary Trustee has power to do all things necessary or convenient to be done for or in connection with the performance of its functions and duties and to enable it to achieve its objectives.

12 Trustees of the Fund

(1) The trustees of the Fund shall be—

- (a) the Minister who shall be chairman;
- (b) the President;

S. 12(1)(a) amended by No. 4/1996 s. 67(1).

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- (c) the Speaker;
- (d) a member of the Council appointed by the Governor in Council; and
- (e) two members of the Assembly appointed by the Governor in Council.

S. 12(2)
amended by
No. 7800
s. 2(1)(b),
repealed by
No. 4/1996
s. 67(2).

* * * * *

S. 12(2A)(2B)
inserted by
No. 56/1992
s. 4,
repealed by
No. 4/1996
s. 67(2).

* * * * *

S. 12(2C)
inserted by
No. 110/1993
s. 102(4),
amended by
No. 4/1996
s. 67(3).

- (2C) A trustee is not subject to any action, liability, claim or demand for any matter or thing done or contract entered into by the Parliamentary Trustee if the matter or thing is done or the contract is entered into in good faith for the purpose of carrying out a power or function of the Parliamentary Trustee under this Act.

S. 12(2D)
inserted by
No. 110/1993
s. 102(4),
amended by
No. 100/1995
s. 10(Sch. 1
item 4.2),
substituted by
No. 4/1996
s. 67(4),
amended by
No. 82/1996
s. 42(1).

- (2D) The Parliamentary Trustee may, by an instrument of delegation under its common seal, delegate to the chairman of trustees or to a Board administering a public sector superannuation scheme or to any other person or corporation²—
- (a) any function, power or duty of the Parliamentary Trustee under this Act, other than this power of delegation; or
 - (b) any power or duty of the Parliamentary Trustee under the **Borrowing and Investment Powers Act 1987**.

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(2E) Without limiting or derogating from the generality of the powers of the Parliamentary Trustee under this Act, the powers of the Parliamentary Trustee include—

S. 12(2E)
inserted by
No. 4/1996
s. 67(4).

- (a) power to enter into agreements or arrangements with any other person or body—
 - (i) to carry out on behalf of the Parliamentary Trustee any one or more of the functions or powers of the Parliamentary Trustee in relation to the Fund;
 - (ii) to provide custodial or nominee services;
- (b) power to engage any person or body to act as an agent on behalf of the Parliamentary Trustee.

(2F) A trustee is not to be taken by reason of being a trustee to hold an office or place of profit under the Crown which would—

S. 12(2F)
inserted by
No. 4/1996
s. 67(4).

- (a) prevent the trustee sitting or voting as a member of the Legislative Council or Legislative Assembly; or
 - (b) make void the trustee's election to the Legislative Council or Legislative Assembly; or
 - (c) prevent the trustee continuing to be a member of the Legislative Council or Legislative Assembly; or
 - (d) subject the trustee to liability to a penalty under the **Constitution Act 1975**.
- (3) Any appointed trustee who ceases to be a member shall thereupon vacate his office as trustee.

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S. 12(6)
amended by
No. 4/1996
s. 67(5).

S. 12(7)
substituted by
No. 4/1996
s. 67(6).

S. 12(8)
substituted by
No. 4/1996
s. 67(6).

- (4) The Governor in Council may remove any appointed trustee.
- (5) When a vacancy (however arising) occurs in the office of an appointed trustee, the Governor in Council may, subject to this Part, appoint a qualified member to fill the vacancy.
- (6) The Parliamentary Trustee, subject to there being a quorum, may continue to act as such notwithstanding any vacancy or vacancies in the office of trustee.
- (7) A matter arising at a meeting of the Parliamentary Trustee can only be determined by a resolution passed by not less than two-thirds of the total number of trustees in office for the time being.
- (8) Subject to this Act, the Parliamentary Trustee may regulate its own procedure.

13 Payment into and out of Fund

- (1) Into the Fund there shall—
 - (a) be transferred the amounts in—
 - (i) the Parliamentary Contributory Retirement Fund established and kept under Division 4 of Part II of **The Constitution Act Amendment Act 1958**; and
 - (ii) the Parliamentary Superannuation Fund established and kept under the **Parliamentary Contributory Superannuation Act 1962**—
- at the date of commencement of this Part;

-
- (b) be paid all deductions from the salaries of members made pursuant to—
- (i) this Part; and
 - (ii) the **Parliamentary Contributory Superannuation Act 1962**; and
- (c) be paid out of the Consolidated Revenue (which is hereby to the necessary extent appropriated accordingly) the annual amounts from time to time determined in accordance with subsection (3), (3A), (3B) or (3C).
- (2) The Parliamentary Trustee shall appoint an actuary to make an actuarial investigation as to the state and sufficiency of the Fund as at 30 June 1996 and as at the expiration of each period of three years thereafter.
- (3) When the actuary has completed each investigation of the Fund before the investigation as at 30 June 1996 he shall certify the amount that is required to be paid to the Fund in each financial year during the period from the 1st day of July in the next ensuing financial year until the expiration of twenty-five years after that date in addition to the other income of the Fund to enable the Fund to meet its liabilities.
- (3A) When the actuary has completed each actuarial investigation of the Fund as at 30 June 1996 and as at the expiration of each period of 3 years thereafter, the actuary must certify in each actuarial investigation the amount in equal annual instalments that is required to be paid to the Fund in each financial year during the period from 1 July after the date as at which the actuarial investigation is held until 30 June 2014 in addition to the other income of the Fund to enable the Fund
- S. 13(1)(c) amended by Nos 7800 s. 3(a), 4/1996 s. 68(2)(a).
- S. 13(2) amended by Nos 4/1996 s. 75(a), 82/1996 s. 42(2).
- S. 13(3) amended by No. 82/1996 s. 42(3).
- S. 13(3A) inserted by No. 7800 s. 3(b), substituted by No. 4/1996 s. 68(1), amended by No. 82/1996 s. 42(4)(a)(b).

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to extinguish its unfunded liability at the end of that period.

S. 13(3B)
inserted by
No. 7800
s. 3(b),
substituted by
No. 4/1996
s. 68(1),
amended by
No. 82/1996
s. 42(5).

(3B) Despite subsection (3A), the Treasurer of Victoria may on the recommendation of the Parliamentary Trustee made on the advice of an actuary approve the making of payments in greater amounts than would otherwise be certified under subsection (3A) so as to enable the unfunded liability to be extinguished before the end of the period specified in subsection (3A).

S. 13(3C)
inserted by
No. 4/1996
s. 68(1),
substituted by
No. 82/1996
s. 42(6).

(3C) As from the actuarial investigation of the Fund as at 30 June 2014 (or an earlier actuarial investigation if the liability of the Fund is then fully funded) and as at each subsequent actuarial investigation, the actuary must certify in each actuarial investigation the amount in equal annual instalments that is required to be paid to the Fund in each of the next 3 financial years in addition to the other income of the Fund to enable the Fund to have its liability fully funded as at the end of each 3 year period and the Treasurer of Victoria must approve the making of those payments to the Fund.

S. 13(3D)
inserted by
No. 82/1996
s. 42(7).

(3D) The Parliamentary Trustee must submit the actuary's report of the investigation to the Minister within 6 months after the end of each period of 3 years.

S. 13(3E)
inserted by
No. 82/1996
s. 42(7).

(3E) The Minister must cause each actuary's report submitted to him or her to be laid before the Legislative Council and the Legislative Assembly before the expiration of the seventh sitting day of the Legislative Council or the Legislative Assembly, as the case may be, after the actuary's report has been received by the Minister.

(4) Out of the Fund there shall be paid to former members their partners and legal personal representatives the pensions superannuation benefits retiring allowances and other amounts provided for under—

S. 13(4)
amended by
Nos 120/1994
s. 36, 27/2001
s. 5(Sch. 3
item 3.4).

(a) this Part;

(b) Division 4 of Part II of **The Constitution Act Amendment Act 1958**; and

(c) the **Parliamentary Contributory Superannuation Act 1962**.

* * * * *

S. 13(5)(6)
repealed by
No. 4/1996
s. 68(2)(b).

14 Deduction from salaries of members

S. 14
substituted by
No. 8663
s. 9(b),
amended by
No. 4/1996
s. 69(a)(b).

(1) From each instalment of salary paid to a person pursuant to Part I during the first 20·5 years of service as a member there shall be deducted from the amount of that instalment the amount equal to 11½ per cent of the gross amount of the instalment before any deductions.

(2) After the first 20·5 years of service as a member, from each instalment of salary paid to a person pursuant to Part I who occupies an office specified in section 6(2) there is to be deducted from the amount of that instalment the amount equal to 11·5 per cent of that part of the instalment that is additional salary payable to that member by virtue of occupying an office specified in section 6(2).

S. 14(2)
inserted by
No. 4/1996
s. 69(c).

s. 14A

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(Heading and
s. 14A)
inserted by
No. 22/1996
s. 29(b).

S. 14A
inserted by
No. 22/1996
s. 29(b),
substituted by
78/2004 s. 3.

Division 2—Existing benefits scheme

14A Application of Division

- (1) This Division does not apply to, or in respect of, a member to whom Division 3 of this Part or Part 4 applies.
- (2) If this Division applies to, or in respect of, a member immediately before the commencement of section 3 of the **Parliamentary Superannuation Legislation (Reform) Act 2004**, the entitlements of that member are to be determined in accordance with this Division if—
 - (a) subject to paragraph (b), the person continues to be a member and after ceasing to be member does not subsequently become a member to whom Part 4 applies; or
 - (b) the person ceases to be a member as a result of resigning as a member of a House of the Parliament and is elected as a member of the other House of the Parliament within 3 months after the resignation.

15 Members' superannuation benefit

S. 15(1)
amended by
Nos 8663 s. 6,
9117 s. 2(a),
substituted by
No. 110/1993
s. 103(1).

- (1) In this section—

"FS", in relation to a person, means TS less PS;

"PS", in relation to a person, means the aggregate period, calculated in years and completed months as at 1 December 1993 or the date of ceasing to be a member, whichever is the earlier, of service as a member, or 20.5 years, whichever is the lesser;

"TS", in relation to a person, means the aggregate period, calculated in years and completed months as at the date of ceasing to be a member, of service as a member, or 20.5 years, whichever is the lesser.

(1A) If, when a person ceases to be a member—

(a) TS, in relation to that person is 15 years or more; or

S. 15(1A) inserted by No. 110/1993 s. 103(1), amended by No. 120/1994 s. 32.

(aa) TS, in relation to the person is 12 years or more and the person ceases to be a member as the result of a resignation or retirement which does not require or cause the holding of a by-election otherwise than on the day of a general election; or

S. 15(1A)(aa) inserted by No. 4/1996 s. 70.

(b) TS, in relation to the person is 8 years or more and the person ceases to be a member as a result of defeat at an election or as the result of resignation for, or of not seeking re-election owing to, good and sufficient reasons which satisfy the trustees; or

(c) TS, in relation to the person is 6 years or more and the member has served in not less than 3 Parliaments, is of or over the age of 60 and ceases to be a member as a result of not seeking re-election at a general election—

the person is entitled to be paid out of the Fund an annual pension at the rate ascertained in accordance with the formula $A \times R \times$ basic salary from time to time.

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S. 15(1B)
inserted by
No. 110/1993
s. 103(1).

(1B) For the purposes of subsection (1A)—

"R" is—

- (a) in the case of a person who became a member on or after 1 December 1993, B1/C1; and
- (b) in the case of a person who became a member before that date, B1/C1 as at the date of ceasing to be a member or the value of B/C as at 1 December 1993, whichever is the greater provided that in no case shall the value of R be greater than the value of B/C at the date of the person's retirement—

and—

"B" is the total salary received by the person pursuant to Part I or any corresponding previous enactment;

"C" is the total basic salary in respect of the period of service of the person in the Parliament;

"B1" is the total salary the person would have received pursuant to Part I or any corresponding previous enactment if the person had received the salary at current rates;

"C1" is the total salary the person would have received pursuant to Part I or any corresponding previous enactment if the person had always been paid the basic salary current as at the date of ceasing to be a member.

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- (1C) For the purposes of subsection (1A), if TS is 8 or more years—
- (a) if PS in relation to the person is 20.5 years, A is 0.75;
- (b) if PS in relation to the person is 8 or more but less than 20.5 years, A is $0.5 + (0.02 \times (PS-8)) + 0.017 \times FS$;
- (c) if PS in relation to the person is less than 8 years, A is $0.0625 \times PS + (0.045 \times (8-PS)) + 0.017 \times (TS-8)$.
- (1D) For the purposes of subsection (1A), if TS is less than 8 years, A is $0.5 \times PS/TS + 0.36 \times FS/TS$.
- (2) Subject to this Part a person who ceases to be a member as the result of defeat at an election or as the result of resignation or of not seeking re-election and who is not entitled to a pension under this Part shall be entitled to have refunded to him—
- (a) the amounts deducted under this Act or any corresponding previous enactment from salary paid to him; and
- (b) any amount actually paid by him to the Fund under section 19 as in force before the commencement of section 105 of the **Public Sector Superannuation (Administration) Act 1993**—

S. 15(1C)
inserted by
No. 110/1993
s. 103(1).

S. 15(1D)
inserted by
No. 110/1993
s. 103(1).

S. 15(2)
amended by
No. 8047
s. 18(2).

S. 15(2)(b)
amended by
No. 120/1994
s. 33(1).

less any amount previously refunded to him under this subsection or under any corresponding previous enactment.

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S. 15(3)
amended by
Nos 8663
s. 9(c),
27/2001
s. 5(Sch. 3
item 3.5).

(3) Subject to this Part where a member dies while serving as a member and that member is not survived by a partner or children the personal representative of that member shall be entitled to have refunded to him—

(a) the amounts deducted under this Act or any corresponding previous enactment from the salary paid to the member; and

S. 15(3)(b)
amended by
No. 120/1994
s. 33(1).

(b) any amount actually paid by the member to the Fund under section 19 as in force before the commencement of section 105 of the **Public Sector Superannuation (Administration) Act 1993**—

less any amount previously refunded to the member under subsection (2) or under any corresponding previous enactment.

S. 15(3A)
inserted by
No. 9117
s. 2(b),
amended by
No. 110/1993
s. 103(2).

(3A) Where a person or a personal representative is entitled to a payment under subsection (2) or subsection (3) that person or personal representative shall be entitled in addition to the refund under the applicable subsection, to an amount equal to two and one-third times the amount that the person contributed before 1 December 1993 and is entitled to have refunded under subsection (2) or (3), together with an amount equal to one and two-thirds times the amount that the person contributed on or after that date and is so entitled to have refunded but if the person was entitled to a refund under subsection (2) by reason of ceasing to be a member otherwise than as the result of defeat at an election or as the result of resignation for or of not seeking re-election owing to good and sufficient reasons which satisfied the trustees, his additional entitlement under this subsection shall be one-half of the amount that he would have otherwise been entitled to.

- (4) Where any refund of contributions or retiring allowance is or was made before 1 December 1993 under subsection (2) or any corresponding previous enactment to a member, and where that member or his partner becomes entitled to a pension under subsection (1) or under section 17 the payment of the pension or other benefit under this Act shall, unless the amount of that refund of contributions or retiring allowance is or has been paid into the Fund or into the Fund constituted under a corresponding previous enactment, be suspended until such time as the aggregate of the pension which would have been payable apart from this subsection would, if so paid, equal the amount of the refund of contributions or retiring allowance received by that member.

S. 15(4)
amended by
Nos 8663
s. 9(d),
120/1994
s. 33(2),
27/2001
s. 5(Sch. 3
item 3.5).

16 Right to convert part of entitlement to lump sum entitlement

- (1) Notwithstanding anything in this Part a former member who is entitled to a pension under section 15 or subsection (4) of section 21 may within the period of three months after ceasing to be a member, elect by notice in writing served on the secretary to convert all or part of his pension entitlement to a lump sum payment determined in accordance with subsection (2).
- (2) A lump sum payment under subsection (1) shall be—
- (a) if the former member was under the age of 66 years at the time that he ceased to be a member, an amount equal to the annual pension entitlement in respect of which the election was made multiplied by ten; or

S. 16(1)
amended by
No. 8663
s. 7(a).

S. 16(2)
substituted by
No. 8663
s. 7(b).

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S. 16(2)(b)
amended by
No. 9117
s. 2(c).

(b) if the former member was of or over the age of 66 at the time that he ceased to be a member, an amount equal to the annual pension entitlement in respect of which the election was made multiplied by the number derived from deducting from ten the number of whole months by which the age of the member exceeded 65 years at the time he ceased to be a member multiplied by one-twenty-fourth.

S. 16(2A)
inserted by
No. 9117
s. 2(d).

(2A) Notwithstanding subsection (2)(b), subsection (2)(a) shall apply—

(a) to a former member of the Assembly who ceased to be a member of the Assembly at or prior to the next general election of the Assembly held after he attained the age of 66 years and whose resignation or retirement does not require or cause the holding of a by-election otherwise than on the day of such general election; and

(b) to a former member of the Council who ceases to be a member at or prior to the next election for half the Council held after he attained the age of 66 years whose resignation or retirement does not require or cause the holding of a by-election otherwise than on the day for such election of half the Council.

S. 16(3)
amended by
No. 8530
s. 3(1)(e).

(3) A former member who makes an election under subsection (1) shall be entitled to receive a lump sum payment calculated under subsection (2) and from the date of payment of that lump sum the annual pension payable to that former member shall be such proportion of the annual pension for the time being payable to that former member under section 15 as the amount of the annual pension that was payable to the former member

immediately before the election was made less the amount of the annual pension in respect of which the election was made bears to the amount of the annual pension that was payable to the former member immediately before the election was made.

- (4) The provisions of this section do not apply to a person who is entitled to a pension under section 17.

* * * * *

S. 16(5)
amended by
No. 7800 s. 4,
repealed by
No. 8663
s. 7(c).

* * * * *

S. 16(6)
repealed by
No. 8663
s. 7(c).

17 Pension on retirement on grounds of ill health

- (1) A person who becomes a member after the commencement of this Act may furnish to the Parliamentary Trustee a certificate of a medical practitioner registered under the **Health Professions Registration Act 2005** who has been approved by the Parliamentary Trustee certifying that the member is not likely by reason of ill health to be rendered incapable, before the expiration of a period of fifteen years from the date of the certificate, of performing the duties of a member.
- (2) Where a member who has furnished a certificate pursuant to subsection (1) or where a person who was a member at the commencement of this Act satisfies the Parliamentary Trustee that he has ceased to be a member because he has been rendered incapable of being a member by reason of ill health he shall, subject to subsection (3), be entitled to a pension calculated under section 15 if

S. 17(1)
amended by
Nos 23/1994
s. 118(Sch. 1
item 40.1),
4/1996
s. 75(a),
97/2005
s. 182(Sch. 4
item 39).

S. 17(2)
amended by
No. 4/1996
s. 75(a).

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he ceases to be a member before the expiration of a period of fifteen years and if he ceases to be a member before the expiration of a period of eight years he shall for the purpose of that calculation be deemed to have served for eight years.

S. 17(3)
amended by
No. 4/1996
s. 75(a)(b).

- (3) A person who applies to the Parliamentary Trustee under this section shall provide the Parliamentary Trustee with such medical reports and other evidence as the Parliamentary Trustee may require.
- (4) Subsection (1) shall apply in relation to a person who has served as a member in a previous Parliament or Parliaments as if the reference to the period of fifteen years in that subsection was a reference to a period equal to the difference between fifteen years and the aggregate period served as a member of previous Parliaments by the person furnishing the certificate.

S. 18
substituted by
No. 8663
s. 9(e).

18 Entitlements on death of member

S. 18(1A)
inserted by
No. 110/1993
s. 104(1).

(1A) In this section—

S. 18(1A)
def. of
minimum spouse pension
amended as
minimum partner pension
by
No. 27/2001
s. 5(Sch. 3
item 3.6).

minimum partner pension means whichever is the greater of—

- (a) $0.4 \times$ the basic salary as at 1 December 1993; and
- (b) $(0.4 \times PS/TS + 0.3 \times FS/TS) \times$ the basic salary from time to time—

where TS, PS and FS have the same meanings as in section 15 and are calculated at the date of the death of the person or of the

person's ceasing to be a member, whichever first occurs.

- (1) On the death of a former member who was receiving a pension under this Part the partner of that former member shall until his death be entitled to an annual pension at the rate of—
- (a) two-thirds of the pension that would be payable from time to time to the former member but for his death or if the former member had pursuant to section 16 converted the whole or a part of his pension entitlement to a lump sum payment, two-thirds of the pension that would be payable to the former member but for his death if he had not so converted the whole or a part of his pension; or
- (b) the minimum partner pension—
- whichever is the greater at the date of the death of that first-mentioned person.
- (2) On the death of a member who has served for an aggregate period of eight years, the partner of that member shall until his death be entitled to an annual pension at the rate of—
- (a) two-thirds of the pension that would be payable from time to time to the former member but for his death if he had ceased to be a member on the date of his death and were entitled to a pension under section 15; or
- S. 18(1) amended by Nos 110/1993 s. 104(2)(a), 27/2001 s. 5(Sch. 3 item 3.6).
- S. 18(1)(a) amended by No. 8687 s. 3(a).
- S. 18(1)(b) substituted by No. 110/1993 s. 104(2)(b), amended by No. 27/2001 s. 5(Sch. 3 item 3.6).
- S. 18(2) amended by Nos 110/1993 s. 104(2)(a), 27/2001 s. 5(Sch. 3 item 3.6).
- S. 18(2)(a) amended by No. 8687 s. 3(b).

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S. 18(2)(b)
substituted by
No. 110/1993
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amended by
No. 27/2001
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(b) the minimum partner pension—

whichever is the greater at the date of death of that former member.

S. 18(3)
amended by
Nos 110/1993
s. 104(2)(a)(d),
27/2001
s. 5(Sch. 3
item 3.6).

(3) On the death of a member before he has served for an aggregate period of eight years a pension shall be paid to his partner until the death of the partner at the rate of the minimum partner pension.

S. 18(4)
amended by
No. 27/2001
s. 5(Sch. 3
item 3.6).

(4) Where payment of a pension or other benefit to a person—

(a) is suspended pursuant to subsection (4) of section 15; or

(b) in the case of a member, would be so suspended on his ceasing to be a member—

and his partner becomes entitled to a pension under this Act the payment of the pension to the partner shall likewise be suspended for the period or the balance of the period (as the case requires) for which the pension or other benefit would have been suspended under subsection (4) of section 15 if the pension had been payable to the former member.

S. 18(5)
repealed by
No. 110/1993
s. 104(2)(e).

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Parliamentary Salaries and Superannuation Act 1968
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s. 18

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- (6) Where a member dies leaving a child but no partner or where a pensioner dies leaving a child but no partner or where the partner of a deceased pensioner dies leaving a child there shall be payable to such person or persons as the Parliamentary Trustee considers fit an allowance at such rate as the Parliamentary Trustee considers fit in respect of each such child but so that the total amount paid to the child or children shall not exceed the amount that would have been payable as a pension to the partner of the deceased.
- (7) No benefit shall be payable under this Part to a partner who became the partner of a former member only after he or she had finally ceased to be a member and within two years of the death of the former member.
- (8) If a partner who became the partner of a former member after he or she had finally ceased to be a member was more than 5 years younger than the former member then any pension payable to that partner is to be reduced to the pension that, in the opinion of an actuary appointed by the Parliamentary Trustee, is the actuarial equivalent at the date of becoming the partner of the former member of the pension that would have been payable if the partner was 5 years younger than the member.
- (9) No person is entitled to receive under this Part at the same time more than one pension but is entitled to whichever of those pensions is the greater.
- S. 18(6)**
inserted by
No. 8687
s. 3(c),
amended by
Nos 4/1996
s. 75(a)(c),
27/2001
s. 5(Sch. 3
item 3.6).
- S. 18(7)**
inserted by
No. 110/1993
s. 104(3),
amended by
No. 27/2001
s. 5(Sch. 3
item 3.6).
- S. 18(8)**
inserted by
No. 110/1993
s. 104(3),
amended by
Nos 4/1996
s. 75(a),
27/2001
s. 5(Sch. 3
item 3.6).
- S. 18(9)**
inserted by
No. 110/1993
s. 104(3).

s. 18B

S. 18(10)
inserted by
No. 110/1993
s. 104(3),
amended by
No. 27/2001
s. 5(Sch. 3
item 3.6).

(10) Despite anything in this Part, only one partner pension shall be payable in the case of the death of any one member or former member, and if more than one person should appear to qualify for a partner pension then—

S. 18(10)(a)
amended by
Nos 4/1996
s. 75(a),
27/2001
s. 5(Sch. 3
item 3.6).

(a) if the member or former member has by request in writing to the Parliamentary Trustee directed that the partner pension shall be paid wholly to one of the persons qualified to receive it or that each shall be paid part, the Parliamentary Trustee shall give effect to the member or former member's expressed intentions;

S. 18(10)(b)
amended by
No. 4/1996
s. 75(a)(d)(i)(ii).

(b) if paragraph (a) does not apply, the Parliamentary Trustee shall in its absolute discretion determine which of the persons who qualifies shall receive the pension or shall apportion it between them as the Parliamentary Trustee considers fit.

S. 18A
inserted by
No. 8047
s. 18(1),
repealed by
No. 56/1992
s. 5.

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S. 18B
inserted by
No. 8047
s. 18(1),
substituted by
No. 54/1993
s. 7.

18B Superannuation guarantee

(1) In this section—

superannuation guarantee amount, in relation to a member or former member, means the amount determined in accordance with the formula $A \times S$ where—

(a) A is the sum of the percentages calculated in accordance with the

formula $P \times \frac{B}{365}$ and, so far as

applicable, the Commonwealth Act and regulations under that Act in respect of the year commencing on 1 July 1992 and each subsequent 1 July, being a year during the whole or part of which the member or former member was a member, where—

- (i) P is the percentage determined by the trustees on the advice of an actuary as the minimum percentage to be applied to avoid a superannuation guarantee shortfall within the meaning of the Commonwealth Act in respect of that year or part; and
 - (ii) B is the number of days during that year less the number of days on which the member or former member was not a member or was on leave of absence without pay and less the number of any other days that, under the Commonwealth Act, are to be disregarded; and
- (b) S is—
- (i) the member or former member's final basic salary; or
 - (ii) the maximum contribution base (expressed as an annual amount) within the meaning of the Commonwealth Act, at the time when the final basic salary is determined—

whichever is the lesser;

s. 20

the Commonwealth Act means the
Superannuation Guarantee (Administration)
Act 1992 of the Commonwealth as amended
and in force for the time being.

S. 18B(2)
amended by
No. 4/1996
s. 71(1).

- (2) Notwithstanding anything to the contrary in this Act or the regulations, the amount of the benefit paid or payable under this Act in respect of any member or former member must not, in respect of the period during which the Commonwealth Act applies, be less than the sum of the amount contributed by him or her to the Fund and the net earning rate as determined by the Parliamentary Trustee on that amount and the superannuation guarantee amount.

S. 18B(3)
substituted by
No. 4/1996
s. 71(2).

- (3) Any part of the superannuation guarantee amount which is required to be preserved in accordance with the specified standards must be so preserved.

S. 19
amended by
No. 50/1988
s. 93(2)
(Sch. 2 Pt 2
item 43) (as
amended by
No. 81/1988
s. 34(e)),
substituted by
No. 110/1993
s. 105,
amended by
No. 58/1994
s. 4,
repealed by
No. 120/1994
s. 34.

* * * * *

20 Entitlements on resuming membership

S. 20(1)
amended by
No. 110/1993
s. 106(1).

- (1) Where a person who had ceased to be a member prior to 1 December 1993 and who on ceasing to be a member converted part of his pension entitlement to a lump sum payment under section 16 becomes a member on a subsequent date the amount, if any, by which the benefits received by that person under this Part before that

date exceed the amount of the benefits he would have received under this Part if he had not so converted part of his pension entitlement shall be calculated.

- (2) Notwithstanding anything in this Part, where a person to whom subsection (1) applies becomes entitled to a pension under section 15 the amount of the annual pension payable to him shall be reduced by ten per cent of the amount calculated under subsection (1).

- (3) Where a person to whom subsection (1) does not apply—

- (a) had previously ceased to be a member; and
(b) had previously converted all or part of his or her pension entitlement to a lump sum payment under section 16 or received a benefit under section 15(3A)—

S. 20(3)
inserted by
No. 110/1993
s. 106(2),
amended by
No. 120/1994
s. 35(a)(b).

becomes entitled to a pension under section 15, the amount of the annual pension payable to him or her shall be reduced by 10 percent of Z where—

"Z" is the sum of ZP calculated for each period of service as a member which ends after 1 December 1993;

ZP is $(LS + TAP - TPP) \times S2$, or 0, whichever is the greater;

LS is the lump sum payment or the benefit under sections 15(2) and 15(3A) the person received in respect of the period divided by S0;

S0 is the basic salary at the end of the period;

S1 is the basic salary at the date the person next became a member after the end of the period;

S2 is the basic salary at the date the person became so entitled to a pension;

TPP is the total pension the person would have received from the end of the period until the date of next becoming a member if he or she had not so converted part of his or her pension divided by $(S0 + S1)/2$;

TAP is the total pension the person actually received from the end of the period until the date of next becoming a member divided by $(S0 + S1)/2$.

21 Certain persons may elect to be subject to this Part

- (1) A person who is a member at the date of commencement of this Part and is a person to whom and in relation to whom the **Parliamentary Contributory Superannuation Act 1962** applies may within three months after that date elect by notice in writing served on the secretary to be subject to the provisions of this Part.
- (2) Subject to this section where a person makes an election under subsection (1) the provisions of the **Parliamentary Contributory Superannuation Act 1962** shall cease to apply to and in relation to him and he shall from the date of the service of the notice under subsection (1) on the secretary be a person to whom this Part applies.
- (3) Where a person who had made an election under subsection (1) or the surviving partner of such person, becomes entitled to a pension or other benefit under this Part that person or surviving partner, as the case requires, may within one month of becoming so entitled elect by notice in writing served on the secretary to receive the pension or other benefit to which that person or surviving partner, as the case requires, would if an election under subsection (1) had not been made,

S. 21(3)
amended by
No. 27/2001
s. 5(Sch. 3
item 3.7).

have been entitled under the **Parliamentary Contributory Superannuation Act 1962**.

- (4) Where a person or surviving partner makes an election under subsection (3) that person or surviving partner, as the case requires, shall from the date of becoming entitled to a pension or benefit under this Part, be entitled to the pension or benefit to which that person or surviving partner, as the case requires, would if an election under subsection (1) had not been made have been entitled under the **Parliamentary Contributory Superannuation Act 1962** and shall not be entitled to a pension or benefit under this Part.

S. 21(4)
amended by
No. 27/2001
s. 5(Sch. 3
item 3.7).

Division 3—New benefits scheme

Pt 2 Div. 3
(Heading and
ss 21A–21C)
inserted by
No. 22/1996
s. 28.

21A Application of this Division

S. 21A
inserted by
No. 22/1996
s. 28.

- (1) Subject to subsections (1A) and (1B), this Division applies to—
- (a) a person who becomes a member of the Parliament after the commencement of section 28 of the **Miscellaneous Acts (Omnibus Amendments) Act 1996**; and
- (b) a person who is a member of the Parliament as at the commencement of section 28 of the **Miscellaneous Acts (Omnibus Amendments) Act 1996** and who at any time elects by notice in writing served on the Parliamentary Trustee to be subject to the provisions of this Division.

S. 21A(1)
amended by
No. 78/2004
s. 4(1).

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s. 21A

S. 21A(1A)
inserted by
No. 78/2004
s. 4(2).

(1A) This Division does not apply to, or in respect of, a member to whom Part 4 applies.

S. 21A(1B)
inserted by
No. 78/2004
s. 4(2).

(1B) If this Division applies to, or in respect of, a member immediately before the commencement of section 4 of the **Parliamentary Superannuation Legislation (Reform) Act 2004**, the entitlements of that member are to be determined in accordance with this Division if—

(a) subject to paragraph (b), the person continues to be a member and after ceasing to be member does not subsequently become a member to whom Part 4 applies; or

(b) the person ceases to be a member as a result of resigning as a member of a House of the Parliament and is elected as a member of the other House of the Parliament within 3 months after the resignation.

(2) For the purposes of this Division, the Division must be read as one with Part V of the Commonwealth Parliamentary Contributory Superannuation Act 1948 as in force as at the commencement of section 28 of the **Miscellaneous Acts (Omnibus Amendments) Act 1996** but the provisions of this Act prevail over the provisions of that Part to the extent of any inconsistency.

S. 21A(3)
amended by
No. 72/2001
s. 5(1).

(3) Subject to this section, unless inconsistent with the context or subject-matter, words and expressions defined in the Commonwealth Parliamentary Contributory Superannuation Act 1948 have the same meaning for the purposes of this Division.

- (4) For the purposes of this Division—
- (a) the Parliamentary Trustee must make a determination as to the meaning of "office", "office holder", "parliamentary allowance", and "salary" having regard to the meaning of those terms in the Commonwealth Parliamentary Contributory Superannuation Act 1948 and the relevant equivalent terms under this Act;
 - (b) a reference in Part V of the Commonwealth Parliamentary Contributory Superannuation Act 1948—
 - (i) to the "Trust" is to be construed as a reference to the "Parliamentary Trustee";
 - (ii) to the "House" or the "House of Representatives" is to be construed as a reference to the "Assembly".
- (5) For the purposes of determining the entitlement to benefits in respect of a person to whom this Division applies, other than a person who became entitled to benefits under this Act before 23 August 2001, the following modifications to the Commonwealth Parliamentary Contributory Superannuation Act 1948 apply in addition to the modifications in section 21C—
- (a) subject to paragraph (d), a person is not to be taken to have had a marital relationship with another person unless the person was legally married to that other person;

S. 21A(5)
inserted by
No. 72/2001
s. 5(2).

Note

Section 4B of the Commonwealth Act sets out the criteria for determining whether a person had a marital relationship with another person.

s. 21A

S. 21A(6)
inserted by
No. 72/2001
s. 5(2).

- (b) a reference to a spouse who survives a deceased person is to be construed as including a reference to a domestic partner who survives a deceased person;
 - (c) a reference to a former spouse is to be construed as including a reference to a former domestic partner;
 - (d) a reference in section 19AA to a marital relationship is to be construed as including a reference to a domestic relationship.
- (6) For the purposes of subsection (5)(b), a person is a domestic partner who survives a deceased person if—
- (a) the person had a domestic relationship with the deceased person at the time of death of the deceased person ("the death"); and
 - (b) in the case of a deceased person who was a retired member at the time of the death—
 - (i) the domestic relationship began before the retired member became a retired member; or
 - (ii) the domestic relationship began after the retired member became a retired member but before the retired member reached 60; or
 - (iii) in the case of neither subparagraph (i) nor (ii) applying—the domestic relationship had continued for a period of at least 5 years up to the time of the death.

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s. 21A

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- (7) For the purposes of subsections (5)(d) and (6), a person had a domestic relationship with another person at a particular time if the persons, although not married to each other, were living together as a couple on a genuine domestic basis (irrespective of gender) at that time and—
- (a) the persons had been so living together for a continuous period of at least 3 years up to that time; or
- (b) the persons had been so living together for a continuous period of less than 3 years up to that time and the Parliamentary Trustee, having regard to any relevant evidence, is of the opinion that the persons so lived together at that time.
- (8) A domestic relationship is taken to have begun at the beginning of the continuous period mentioned in subsection (7)(a) and (b).
- (9) In determining whether a person had a domestic relationship with another person, all the circumstances of the relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.
- (10) In this section—
- former domestic partner*, in relation to another person, means a person who previously had had a domestic relationship with that other person.
- S. 21A(7) inserted by No. 72/2001 s. 5(2).
- S. 21A(8) inserted by No. 72/2001 s. 5(2).
- S. 21A(9) inserted by No. 72/2001 s. 5(2).
- S. 21A(10) inserted by No. 72/2001 s. 5(2).

s. 21B

S. 21B
inserted by
No. 22/1996
s. 28.

21B Transfer entitlement

The Parliamentary Trustee must in respect of each member who has made an election under section 21A(1)(b) recognise the total period of service (calculated in years, months and days) during which the member contributed to the Fund until the date of the election.

S. 21C
inserted by
No. 22/1996
s. 28.

21C Benefits

S. 21C(1)
amended by
No. 78/2004
s. 5.

- (1) Subject to this section, the entitlement to benefits of, or in respect of, a person to whom this Division applies, is to be determined in accordance with Part V of the Commonwealth Parliamentary Contributory Superannuation Act 1948 as in force as at the commencement of section 28 of the **Miscellaneous Acts (Omnibus Amendments) Act 1996** and in accordance with Schedule 1 to the Commonwealth Parliamentary Contributory Superannuation Act 1948 as inserted by the Commonwealth Parliamentary Superannuation and Other Entitlements Legislation Amendment Act 2004, subject to any modifications to that Schedule which the Parliamentary Trustee considers are necessary to give effect to the modifications to Part V of the Commonwealth Parliamentary Contributory Superannuation Act 1948 specified in subsection (2).
- (2) For the purposes of this Division, Part V of the Commonwealth Parliamentary Contributory Superannuation Act 1948 applies with the following modifications—

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(a) as if sections 14A, 15, 15A(5), 15B(9), 16(1A), 16(2), 16(3), 16(4), 17(3), 17(4), 17(5), 18(3), 19A, 20A, 21, 21AA(5)(a), 21B and 22 were repealed;

S. 21C(2)(a)
amended by
No. 82/1996
s. 43(1)(a).

(b) as if in section 15A(1) for paragraphs (b), (c) and (d) there were substituted—

"(b) immediately before retirement from the Council or the Assembly by effluxion of time or the dissolution of the Council or the Assembly, was a member of the Council or the Assembly and is not a candidate for election to the Council or the Assembly at the next ensuing election;"

(c) as if in section 15C(11)—

(i) for "by the Commonwealth" there were substituted "from the Consolidated Fund";

(ii) for "Consolidated Revenue Fund" there were substituted "Consolidated Fund";

(d) as if for section 18(2A) there were substituted—

"(2A) For the purposes of subsection (1B) and paragraphs (2)(aa) and (2AA)(b), the term of office of a member of the Council is deemed to have expired on the day on which the term of office of a member of the Assembly expires.";

(e) as if in section 18(9) "of a person who became entitled to a retiring allowance after 30 June 1980" were omitted;

(f) as if in section 18B(1) "on or after 12 June 1978" were omitted;

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s. 21C

S. 21C(2)(j)
inserted by
No. 82/1996
s. 43(1)(b).

- (g) as if in section 18B(3) for "Secretary to the Department of Finance" there were substituted "Parliamentary Trustee";
- (h) as if in section 18B(3) "(not exceeding 50%)" were omitted;
- (i) as if in section 19AB(2) "on or after 12 June 1978" were omitted.
- (j) as if in section 20(1A) the definition of *cut off date* were omitted;

S. 21C(2)(k)
inserted by
No. 82/1996
s. 43(1)(b).

- (k) as if in section 20(1A) in the definition of *eligible lump sum amount* after paragraph (b) there were inserted—
"; or
(c) any amounts received under sections 15(2) and 15(3A) of the **Parliamentary Salaries and Superannuation Act 1968.**";

S. 21C(2)(l)
inserted by
No. 82/1996
s. 43(1)(b).

- (l) as if after section 20(1A) there were **inserted—**
"(1AAA) This section applies to a person specified in section 21A(1)(a) of the **Parliamentary Salaries and Superannuation Act 1968.**";

S. 21C(2)(m)
inserted by
No. 82/1996
s. 43(1)(b).

- (m) as if in sections 20(1AA) and 20(1AB) after "member" there were inserted "or on electing to transfer from Division 2 to Division 3 of the **Parliamentary Salaries and Superannuation Act 1968**";

S. 21C(2)(n)
inserted by
No. 82/1996
s. 43(1)(b).

- (n) as if in section 20, subsections (1AC), (2), (2A), (2B), (2C), (2D) and (5) were repealed.

- (3) If a person specified in section 21A(1)(b) had a previous period of service as a member that terminated before 1 December 1993—
- (a) in respect of which the person received a benefit under section 15(2) before electing to transfer to this Division, the person must elect to repay the amount of that benefit or to have his or her entitlement to benefits under this Division reduced in accordance with section 15(4) as if that section applied to this Division; or
 - (b) in respect of which the person received a pension benefit which he or she partly commuted to a lump sum under section 16 before electing to transfer to this Division, the person must have his or her entitlement to benefits under this Division reduced in accordance with sections 20(1) and 20(2) as if those provisions applied to this Division.

S. 21C(3)
inserted by
No. 82/1996
s. 43(2).

Division 3A—Family Law provisions

Pt 2 Div. 3A
(Heading and
ss 21CA–
21CG)
inserted by
No. 70/2003
s. 10.

21CA Definitions

- (1) In this Division—

approved deposit fund has the meaning given by section 10(1) of the Commonwealth Superannuation Industry (Supervision) Act 1993;

eligible rollover fund means a fund within the meaning of section 242 of the Commonwealth Superannuation Industry (Supervision) Act 1993;

S. 21CA
inserted by
No. 70/2003
s. 10.

eligible superannuation plan means—

- (a) a regulated superannuation fund; or
- (b) an approved deposit fund; or
- (c) an exempt public sector superannuation scheme; or
- (d) an RSA;

exempt public sector superannuation scheme

means a public sector superannuation scheme within the meaning of section 10(1) of the Commonwealth Superannuation Industry (Supervision) Act 1993;

flag lifting agreement has the meaning given by section 90MN of the Commonwealth Family Law Act 1975;

flagging order means an order mentioned in section 90MU(1) of the Commonwealth Family Law Act 1975;

interest has the meaning given by section 90MD of the Commonwealth Family Law Act 1975;

member spouse, in relation to a superannuation interest, means the spouse who has the superannuation interest;

non-member spouse, in relation to a superannuation interest, means the spouse who is not the member spouse in relation to that interest;

payment flag has the meaning given by section 90MD of the Commonwealth Family Law Act 1975;

regulated superannuation fund means a superannuation fund which complies with section 19 of the Commonwealth Superannuation Industry (Supervision) Act 1993;

relevant condition of release means, a condition of release mentioned in item 101, 102, 103 or 106 of Schedule 1 to the Commonwealth Superannuation Industry (Supervision) Regulations 1994;

reversionary interest has the meaning given by section 90MF of the Commonwealth Family Law Act 1975;

RSA means a retirement savings account within the meaning of the Commonwealth Retirement Savings Accounts Act 1997;

specified period means the period which is specified to be the specified period in the specified standards;

splitting order means an order mentioned in section 90MT of the Commonwealth Family Law Act 1975;

superannuation agreement has the meaning given by section 90MH of the Commonwealth Family Law Act 1975;

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

superannuation interest means an interest that a person has as a member of an eligible superannuation plan, but does not include a reversionary interest;

unsplittable interest has the meaning given by section 90MD of the Commonwealth Family Law Act 1975;

s. 21CB

value at a particular time of the non-member spouse's entitlement in respect of the superannuation interest means the value as determined in accordance with regulation 14G(8) of the Commonwealth Family Law (Superannuation) Regulations 2001;

value of the member spouse's interest in the Fund means the value as determined in accordance with Part 5 of the Commonwealth Family Law (Superannuation) Regulations 2001.

- (2) A reference to the transfer of an amount is to be construed as including a reference to the rollover of an amount.

S. 21CB
inserted by
No. 70/2003
s. 10.

21CB Accrued benefit multiple

For the purpose of regulation 65 of the Commonwealth Family Law (Superannuation) Regulations 2001, the Parliamentary Trustee on the advice of an actuary appointed by the Parliamentary Trustee may from time to time determine the accrued benefit multiple.

S. 21CC
inserted by
No. 70/2003
s. 10.

21CC Obligation on Parliamentary Trustee

- (1) Subject to subsections (5) and (6), the Parliamentary Trustee must comply with this section if—
- (a) a superannuation agreement which provides for a payment split; or
 - (b) a flag lifting agreement which provides for a payment split; or
 - (c) a splitting order—
is served on the Parliamentary Trustee under Part VIIIB of the Commonwealth Family Law Act 1975.

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- (2) This section also applies to—
- (a) a superannuation agreement which provides for a payment split; or
 - (b) a flag lifting agreement which provides for a payment split; or
 - (c) a splitting order—
- which was served on the Parliamentary Trustee under Part VIII B of the Commonwealth Family Law Act 1975 before the commencement of section 10 of the **Superannuation Acts (Family Law) Act 2003** if the non-member spouse's entitlements in respect of the superannuation interest have not been satisfied as at that commencement.
- (3) If the non-member spouse has not satisfied a relevant condition of release and the member spouse is not receiving a pension under this Act, the Parliamentary Trustee must if the value of the non-member spouse's entitlement in respect of the superannuation interest at the particular time does not exceed the value of the member spouse's interest in the Fund—
- (a) transfer a lump sum amount equal to the value of the non-member spouse's entitlement in respect of the superannuation interest at the time of the payment to an eligible superannuation plan nominated in writing by the non-member spouse within the specified period; or
 - (b) if the non-member spouse fails to nominate in writing an eligible superannuation plan within the specified period, transfer a lump sum amount equal to the value of the non-member spouse's entitlement in respect of the superannuation interest at the time of the
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payment to an eligible rollover fund selected by the Parliamentary Trustee.

- (4) If the non-member spouse has satisfied a relevant condition of release or the member spouse is receiving a pension under this Act, the Parliamentary Trustee must if the value of the non-member spouse's entitlement in respect of the superannuation interest at the particular time does not exceed the value of the member spouse's interest in the Fund—
- (a) if so requested in writing by the non-member spouse within the specified period, pay the non-member spouse a lump sum amount equal to the value of the non-member spouse's entitlement in respect of the superannuation interest at the time of the payment; or
 - (b) if so requested in writing by the non-member spouse within the specified period, transfer a lump sum amount equal to the value of the non-member spouse's entitlement in respect of the superannuation interest at the time of the payment to an eligible superannuation plan nominated in writing by the non-member spouse; or
 - (c) if no request is received from the non-member spouse within the specified period, transfer a lump sum amount equal to the value of the non-member spouse's entitlement in respect of the superannuation interest at the time of the payment to an eligible rollover fund selected by the Parliamentary Trustee.

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- (5) Subsections (3) and (4) do not apply if—
- (a) the member spouse's superannuation interest is an unsplittable interest; or
 - (b) a payment flag is operating in respect of the member spouse's superannuation interest; or
 - (c) the non-member spouse has served a waiver notice on the Board under section 90MZA of the Commonwealth Family Law Act 1975 in respect of the member spouse's superannuation interest; or
 - (d) the member spouse's superannuation interest is a payment that is not a splittable payment under Part 2 of the Commonwealth Family Law (Superannuation) Regulations 2001.
- (6) If the member spouse's superannuation interest is a pension under this Act due to a disability which is a splittable payment, the Parliamentary Trustee may determine that subsections (3) and (4) do not apply.
- (7) If the non-member spouse serves a waiver notice on the Parliamentary Trustee under section 90MZA of the Commonwealth Family Law Act 1975 in respect of the member spouse's superannuation interest, the Parliamentary Trustee may make a payment to the non-member spouse not exceeding the value at a particular time of the non-member spouse's entitlement in respect of the superannuation interest less any payments previously made by the Parliamentary Trustee to the non-member spouse in accordance with this section.
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s. 21CD

S. 21CD
inserted by
No. 70/2003
s. 10.

21CD Reduction of benefit

Despite anything to the contrary in this Act, if under section 21CC an amount is paid by the Parliamentary Trustee to a non-member spouse or transferred by the Parliamentary Trustee on behalf of a non-member spouse, the benefit of a member spouse must be reduced by the Parliamentary Trustee in accordance with a methodology approved by the Minister, on the advice of an actuary appointed by the Parliamentary Trustee.

S. 21CE
inserted by
No. 70/2003
s. 10.

21CE Parliamentary Trustee may provide additional information

On the application of an eligible person within the meaning of section 90MZB(8) of the Commonwealth Family Law Act 1975, the Parliamentary Trustee may provide information additional to the information required to be provided under section 90MZB of that Act if the Parliamentary Trustee considers that the additional information is necessary to understand the Fund or the member spouse's benefit entitlements.

S. 21CF
inserted by
No. 70/2003
s. 10.

21CF Commutation rights not affected

The entitlement of a person to convert or commute a benefit or pension under this Act is not affected by the making of a payment or transfer under this Division.

S. 21CG
inserted by
No. 70/2003
s. 10.

21CG Charging of fees

- (1) The Parliamentary Trustee may charge reasonable fees in respect of—
 - (a) a payment split;
 - (b) a payment flag;
 - (c) flag lifting under a flag lifting agreement that does not provide for a payment split;

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- (d) an order under section 90MM of the Commonwealth Family Law Act 1975 terminating the operation of a payment flag;
 - (e) an application under section 90MZB of the Commonwealth Family Law Act 1975 for information about a superannuation interest;
 - (f) any other thing done by the Parliamentary Trustee in relation to a superannuation interest covered by a superannuation agreement, flag lifting agreement or splitting order;
 - (g) the provision of information under section 21CE.
- (2) Fees charged under subsection (1) must not exceed the maximum levels of fees fixed by the Minister for the purposes of this section by notice published in the Government Gazette.
- (3) If the Parliamentary Trustee charges a fee under subsection (1), the fee is payable—
- (a) unless paragraph (b) applies, in the case of subsection (1)(a), (1)(b), (1)(c), (1)(d) or (1)(f), by the member spouse and the non-member spouse in equal parts; and
 - (b) if the fee is in respect of a payment split under which the non-member spouse is entitled to be paid the whole of the amount of each splittable payment that becomes payable, by the non-member spouse; or
 - (c) in the case of subsection (1)(e) or (1)(g), by the person who made the application.
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s. 21D

Pt 2 Div. 4
(Heading)
inserted by
No. 22/1996
s. 29(c).

Division 4—General provisions

S. 21D
inserted by
No. 13/1999
s. 7.

21D Payment of benefits subject to specified standards

Notwithstanding anything to the contrary in this Act, the payment of any benefit under this Act is subject to any relevant specified standards.

S. 22
amended by
No. 4/1996
s. 72(1).

22 Provision where Commonwealth pension payable

- (1) Where any person to whom a pension would be payable under this Part but for the provisions of this section has become entitled to payment of any pension under the Commonwealth Act known as the Parliamentary Retiring Allowances Act 1948-1965 or any amendment thereof or Act in substitution therefor, his right to payment of a pension under this Part shall be suspended while he is so entitled under the said Commonwealth Act:

Provided that, where he has received a pension or benefit under the said Commonwealth Act, the trustees may in their absolute discretion direct payment to that person of a pension of such amount as the trustees think fit but so that the total of both amounts so received shall not exceed the annual pension that would be payable under this Act but for the provisions of this section.

S. 22(2)
inserted by
No. 4/1996
s. 72(2).

- (2) This section only applies to a person to whom a pension would be payable under this Part who has ceased or ceases to be a member on or before the commencement of section 73 of the **Superannuation Acts (Amendment) Act 1996**.

23 Entitlement to pension

- (1) The entitlement of a former member to receive a pension under this Part ceases—
 - (a) if the former member again becomes a member of the Parliament, on the day that he or she becomes a member of the Parliament; or
 - (b) if any part of any entitlement under this Part or membership of the Fund is recognised as entitlement towards any benefit in a complying superannuation fund and there is a transfer of assets from the Fund to that complying superannuation fund in accordance with subsection (2), on the day determined by the Parliamentary Trustee.
- (2) If subsection (1)(b) applies, the Parliamentary Trustee must on the recommendation of an actuary transfer from the Fund to the relevant complying superannuation fund an amount certified by the actuary to be equivalent to the former member's entitlement under this Part.
- (3) The Parliamentary Trustee is released from any liability to make any further payments to, or in respect of, any entitlement of the former member or of any partner or children of the former member as soon as the certified amount is transferred to the relevant complying superannuation fund.
- (4) The entitlement of a former member to receive a pension under this Part does not cease otherwise than in accordance with this section.

S. 23
amended by
Nos 8118 s. 3,
110/1993
s. 107(1)(2),
substituted by
No. 4/1996
s. 73.

S. 23(3)
amended by
Nos 50/1997
s. 18(3),
27/2001
s. 5(Sch. 3
item 3.8).

23A Early release of benefits

- (1) The Parliamentary Trustee may approve the early release of part or all of the vested benefit entitlement of a member or former member in accordance with the specified standards.

S. 23A
inserted by
No. 82/1996
s. 44.

s. 24

- (2) The Parliamentary Trustee must determine—
- (a) the amount of the vested benefit entitlement to be released; and
 - (b) the method of payment of that amount; and
 - (c) the reduction to be made to the vested benefit pension entitlement—
- in accordance with the specified standards.

S. 24
amended by
No. 110/1993
s. 107(3),
substituted by
No. 4/1996
s. 73.

24 Transfer of preserved benefit

- (1) If a benefit under this Part is required by the specified standards to be preserved, a former member is entitled to have the amount of preserved benefit transferred to another complying superannuation fund nominated by the former member to the Parliamentary Trustee and may apply to the Parliamentary Trustee to make the transfer.
- (2) Subject to section 24A, the Parliamentary Trustee must transfer that amount to that other complying superannuation fund.

S. 24A
inserted by
No. 4/1996
s. 73.

24A Money owing to the Fund

- (1) The Parliamentary Trustee may recover any amount of money owing to the Fund by a member, former member, beneficiary or any other person together with an interest on that amount in accordance with subsection (2)—
- (a) if any amount is or becomes payable from the Fund to that member, former member, beneficiary or other person by the Parliamentary Trustee deducting it from that amount; or
 - (b) in any other case as a debt in any court of competent jurisdiction.

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- (2) Interest at the rate for the time being fixed under section 2 of the **Penalty Interest Rates Act 1983** is payable on any amount owing to the Fund calculated from the date on which the amount becomes due until the date on which the amount is paid or otherwise recovered under subsection (1).

24B Person may request Parliamentary Trustee to reconsider decision

S. 24B
inserted by
No. 4/1996
s. 73.

- (1) A person who is affected by a decision of the Parliamentary Trustee which relates to the entitlement of any person to any benefit or entitlement under this Part may, by written notice given to the Parliamentary Trustee within 30 days after the decision comes to the notice of the person, request the Parliamentary Trustee to reconsider the decision.
- (2) The Parliamentary Trustee may, on receipt of a written application, extend or further extend, the time for the giving of notice to the Parliamentary Trustee requesting the Parliamentary Trustee to reconsider a decision.
- (3) The request must set out the grounds on which the request is made.
- (4) On receipt of the request, the Parliamentary Trustee must reconsider the decision, and may confirm or vary the decision in any way the Parliamentary Trustee thinks fit.
- (5) The Parliamentary Trustee must, within 30 days after receipt of the request, by written notice inform the person who made the request of the result of the Parliamentary Trustee's reconsideration of the decision.

s. 24C

S. 24B(6)
substituted by
No. 52/1998
s. 311(Sch. 1
item 70).

- (6) A person whose interests are affected by—
- (a) a decision of the Parliamentary Trustee under subsection (2); or
 - (b) a decision of the Parliamentary Trustee under subsection (2) as varied or confirmed under subsection (4)—

may apply to the Victorian Civil and Administrative Tribunal for review of the decision.

S. 24B(7)
inserted by
No. 52/1998
s. 311(Sch. 1
item 70).

- (7) An application for review must be made within 28 days after the later of—
- (a) the day on which the decision is made;
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

S. 24C
inserted by
No. 4/1996
s. 73.

24C Specified standards

- (1) The Governor in Council may by Order in Council—

S. 24C(1)(a)
amended by
No. 70/2003
s. 11(1).

- (a) specify standards and conditions for the preservation of specified employer and member contributions and benefits; and
- (b) specify the method, manner and form in which preserved contributions may be paid as a benefit; and

S. 24C(1)(c)
amended by
No. 82/1996
s. 45.

- (c) specify maximum fees and charges which the Parliamentary Trustee may impose on specified types of benefits; and

S. 24C(1)(ca)
inserted by
No. 70/2003
s. 11(2).

- (ca) specify processes and requirements in respect of the administration and operation of Division 3A; and

Parliamentary Salaries and Superannuation Act 1968
No. 7723 of 1968

Part 3—Parliamentary Contributory Superannuation Fund

s. 24C

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- (cb) specify the benefits and entitlements of non-members spouses under Division 3A; and S. 24C(1)(cb) inserted by No. 70/2003 s. 11(2).
- (d) specify the circumstances (other than death) in which an application for an early release of benefits may be made; and S. 24C(1)(d) inserted by No. 82/1996 s. 45.
- (e) specify the benefits in respect of which an application for an early release may be made; and S. 24C(1)(e) inserted by No. 82/1996 s. 45.
- (f) specify the method, manner and form in which benefits which are the subject of an application for an early release of benefits may be paid. S. 24C(1)(f) inserted by No. 82/1996 s. 45.
- (2) An Order in Council made under this section—
- (a) must be published in the Government Gazette;
- (b) takes effect on and from the date on which it is published or any later date of commencement as may be specified in the Order in Council;
- (c) may apply, adopt or incorporate (with or without modification) the provisions of any document, code, standard, rule, specification or method whether as formulated, issued, prescribed or published at the time the Order in Council is made.
- (3) Any Order in Council made before the enactment of the **Superannuation Acts (Family Law) Act 2003** has force and effect as if it had been made under this section as amended by section 11(1) of that Act. S. 24C(3) inserted by No. 70/2003 s. 11(3).
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S. 24D
inserted by
No. 29/2000
s. 11.

24D Surcharge debt account

- (1) The Parliamentary Trustee must establish and maintain a separate surcharge debt account for each member of the Fund.
- (2) The Parliamentary Trustee must debit to a member's surcharge debt account—
 - (a) any superannuation contributions tax paid or payable by the Parliamentary Trustee on contributions in respect of the member as a result of the operation of the Commonwealth Superannuation Contributions Tax (Assessment and Collection) Act 1997 to discharge the liability imposed under that Act; and
 - (b) if the member's surcharge debt account is in debit at the end of a financial year, interest on the amount by which the account is in debit, calculated at the same rate as the rate determined under section 16 of the Commonwealth Superannuation Contributions Tax (Assessment and Collection) Act 1997; and
 - (c) any debit adjustment to the amount debited under paragraph (a).
- (3) The Parliamentary Trustee must credit to a member's surcharge debt account—
 - (a) any pre-payment by the member to the Parliamentary Trustee in respect of any payment made or to be made by the Parliamentary Trustee to discharge or partially discharge the liability imposed under the Commonwealth Superannuation Contributions Tax (Assessment and Collection) Act 1997; and
 - (b) any credit adjustment to the amount debited under subsection (2)(a); and

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- (c) any surcharge deduction amount under subsection (4); and
- (d) an amount to achieve a nil balance after all the debits under subsection (2) and all the credits under paragraphs (a) to (c) have been made.
- (4) If—
- (a) the Parliamentary Trustee discharges the liability imposed under the Commonwealth Superannuation Contributions Tax (Assessment and Collection) Act 1997 under section 7 of that Act; and
- (b) benefits become payable to or in respect of a person who has held office as a member; and
- (c) the person's surcharge debt account is in debit when those benefits become so payable—
- then, despite anything in any Act or in any trust instrument, contract or other document, the Parliamentary Trustee may reduce those benefits by an amount determined in writing that, in the Parliamentary Trustee's opinion on the advice of an actuary, would be fair and reasonable having regard to the matters specified in subsection (5).
- (5) In making the determination, the Parliamentary Trustee must have regard to the following—
- (a) the amount by which the person's surcharge debt account is in debit when those benefits become payable;
- (b) the value of the employer-financed component of those benefits;
- (c) the value of the benefits that, for the purpose of working out (under the Commonwealth Superannuation Contributions Tax (Assessment and Collection) Act 1997) the
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s. 24E

surchargeable contributions reported for the person, were assumed to be likely to be payable to the person on his or her ceasing to hold office as a member;

- (d) whether the person has or had qualified for his or her maximum benefit entitlement under this Act;
 - (e) any other matter that the Parliamentary Trustee considers relevant.
- (6) The amount determined under subsection (4) by the Parliamentary Trustee must not be more than 15 per cent of the employer-financed component of that part of the benefits payable to the person that accrued after 20 August 1996.
- (7) For the purposes of subsection (4), if the benefit is in the form of a pension entitlement, the deduction is to be made by the Parliamentary Trustee commuting the member's pension entitlement to the extent determined by an actuary appointed by the Parliamentary Trustee to be necessary to meet the amount determined under subsection (4).
- (8) The exercise of the power of commutation under subsection (7) does not affect the exercise of any other commutation rights under this Act.

S. 24E
inserted by
No. 29/2000
s. 11.

24E Commutation of pension to meet surcharge liability

- (1) The power of commutation under this section applies if—
- (a) a person is receiving a pension under this Act; and
 - (b) the person receives a notice of surcharge assessment on contributions made in respect of the person when he or she was a member from the Australian Taxation Office for which he or she is personally liable; and

- (c) the person makes an election in accordance with subsection (2).
- (2) The election must—
- (a) be made within the period of 3 months after the day on which the assessment is made; and
 - (b) be made in a manner approved by the Parliamentary Trustee; and
 - (c) authorise the Parliamentary Trustee to pay on the person's behalf the amount of the surcharge assessment directly to the Australian Taxation Office.
- (3) The Parliamentary Trustee must commute the person's pension to the extent determined by an actuary appointed by the Parliamentary Trustee to be necessary to pay the amount of the surcharge assessment.
- (4) The Parliamentary Trustee must advise the person in writing as to the actuary's determination.
- (5) The exercise of the power of commutation under this section does not affect the exercise of any other commutation rights under this Act.

25 Regulations

- (1) The Governor in Council may make regulations for or with respect to prescribing any matter or thing authorized or required to be prescribed by this Part or necessary or expedient to be prescribed for the purposes of this Part.

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S. 25
amended by
No. 56/1992
s. 6(a).

S. 25(2)
inserted by
No. 56/1992
s. 6(b),
repealed by
No. 4/1996
s. 74.

Pt 4 (Heading
and ss 26–43)
inserted by
No. 78/2004
s. 7.

**PART 4—PARLIAMENTARY ACCUMULATION
SUPERANNUATION ARRANGEMENTS**

Division 1—Preliminary

S. 26
inserted by
No. 78/2004
s. 7.

26 Definitions

In this Part—

administering authority means—

- (a) in relation to a person who is a member of the Legislative Assembly, the Clerk of the Legislative Assembly; and
- (b) in relation to a person who is a member of the Legislative Council, the Clerk of the Legislative Council;

basic contributions fund, in relation to a person at a particular time, means—

- (a) if a choice notice given by the member is in force under Division 3 at that time, the fund that is, at that time, specified in the notice as the chosen fund; or
- (b) in any other case, the fund or scheme that is, at that time, the default fund;

choice notice means a notice under section 35;

chosen fund means the fund chosen by a member under section 34;

complying superannuation fund has the meaning given by section 27;

default fund means the fund or scheme declared by the Minister to be the default fund under Division 4;

- election* has the same meaning as it has in section 3 of the **Electoral Act 2002**;
- month* means one of the 12 months of the year;
- new arrangements* means parliamentary accumulation superannuation arrangements;
- new arrangements contribution period*, in relation to a person, has the meaning given by section 29;
- new arrangements entry time*, in relation to a person, has the meaning given by section 28;
- parliamentary salary* means salary to which a member is entitled under section 6(1)(a);
- prescribed* means prescribed by regulations made under this Part;
- 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.

27 Meaning of complying superannuation fund

- (1) For the purposes of this Part, a fund or scheme is a complying superannuation fund at a particular time if, and only if—
- (a) the fund or scheme is a complying superannuation fund for the purposes of Part IX of the Income Tax Assessment Act 1936 of the Commonwealth in relation to the year of income in which the time occurs; and
 - (b) the fund or scheme is a superannuation fund as defined by section 6(1) of the Income Tax Assessment Act 1936 of the Commonwealth.

S. 27
inserted by
No. 78/2004
s. 7.

(2) In applying subsection (1)(a) in relation to a fund or scheme and a particular time, the following are to be disregarded—

- (a) any notice that is given after that time under section 40 of the Superannuation Industry (Supervision) Act 1993 of the Commonwealth and that relates to the fund or scheme and the year of income in which the time occurs;
- (b) any revocation or setting aside, after that time, of a notice given before that time under section 40 of the Superannuation Industry (Supervision) Act 1993 of the Commonwealth and that relates to the fund or scheme and the year of income in which the time occurs or an earlier year of income.

S. 28
inserted by
No. 78/2004
s. 7.

28 Meaning of new arrangements entry time

- (1) For the purposes of this Part, the new arrangements entry time for a person is the first time after the commencement of section 7 of the **Parliamentary Superannuation Legislation (Reform) Act 2004** in relation to which the following conditions are satisfied—
- (a) the time is on or after the election day for the first election following the commencement of that section;
 - (b) the person becomes entitled to a parliamentary salary at that time;
 - (c) the person was not entitled to a parliamentary salary immediately before that time.

- (2) For the purposes of subsection (1), if—
- (a) a person resigned as a member of a House of the Parliament; and
 - (b) was elected as a member of the other House of the Parliament within 3 months after the resignation—

then the person is taken to have been entitled to a parliamentary salary from the time the person resigned as a member until the time the person was elected as a member of the other House of the Parliament.

- (3) For the purposes of subsection (2), a person is taken to be elected on the election day.
- (4) For the purposes of this Part, if after the commencement of section 9 of the **Constitution (Parliamentary Reform) Act 2003**, a person becomes a member as a result of being chosen under section 27A of the **Constitution Act 1975** to fill a casual vacancy in the Legislative Council the person is taken to be elected on the day that the person is chosen to fill the casual vacancy.

29 Meaning of new arrangements contribution period

- (1) For the purposes of this Part, a new arrangements contribution period of a person is a period described in subsection (2) or (3).
- (2) The period that starts at the new arrangements entry time for the person and that ends when the person next ceases to be entitled to a parliamentary salary is a new scheme contribution period of the person.

S. 29
inserted by
No. 78/2004
s. 7.

s. 30

- (3) The period that starts at any later time in relation to which the following conditions are satisfied—
- (a) the person becomes entitled to a parliamentary salary at that time; and
 - (b) the person was not entitled to a parliamentary salary immediately before that time—

and that ends when the person next ceases to be entitled to a parliamentary salary is a new arrangements contribution period of the person.

Division 2—State's obligations to make contributions

30 Persons to whom this Division applies

This Division applies to a member in respect of a month if all or part of the month is in a new arrangements contribution period of the member.

31 The State's obligations to make contributions

- (1) If this Division applies to the member in respect of a month, the State must make a contribution, in respect of the member, to the basic contributions fund of the member.
- (2) Subject to subsection (3), the amount of the contribution is an amount equal to the greater of—
 - (a) the sum of the prescribed percentage of—
 - (i) the amount of parliamentary salary to which the person is entitled in respect of the month; and
 - (ii) the amount (if any) of additional salary to which the member is entitled because he or she was the holder of an office specified in the first column of the Table to section 6 for some or all of the month; or

S. 30
inserted by
No. 78/2004
s. 7.

S. 31
inserted by
No. 78/2004
s. 7.

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- (b) the minimum amount necessary to avoid a superannuation guarantee shortfall within the meaning of the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth.
- (3) An election under section 41 to make member contributions by way of salary sacrifice does not affect the amount that would otherwise constitute parliamentary salary for the purpose of subsection (2)(a).
- (4) Despite anything to the contrary in this section, the State is not required by this section to pay contributions to the person's basic contributions fund if, under the Superannuation Industry (Supervision) Act 1993 of the Commonwealth (including the regulations under that Act), the basic contributions fund is not permitted to receive those contributions.
- (5) The administering authority must comply with any requirements relating to the making of contributions under the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth.
- (6) The Superannuation Industry (Supervision) Act 1993 of the Commonwealth (including the regulations under that Act) apply in respect of contributions made under this Part.
- (7) In this section, *prescribed percentage* means the percentage required under the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth to ensure compliance with the minimum level of contributions required to be made by employers to avoid incurring a liability for a superannuation guarantee charge under that Act.
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s. 32

Division 3—Choice of funds

S. 32
inserted by
No. 78/2004
s. 7.

32 Meaning of fund—includes schemes and accounts

In this Division, *fund* includes a scheme or account.

S. 33
inserted by
No. 78/2004
s. 7.

33 When may a person choose a fund?

A member may choose a fund as described in section 34 if, and only if, the choice is made during a new arrangements contribution period of the member.

S. 34
inserted by
No. 78/2004
s. 7.

34 The nature of the choice

- (1) A member may choose a fund to be the fund to which contributions are made under this Part in respect of the member.
- (2) At the time the choice is made, the chosen fund must be—
 - (a) a complying superannuation fund; or
 - (b) an RSA.

Note

Complying superannuation funds include any self-managed funds which are complying superannuation funds.

- (3) There can only be one chosen fund at any particular time in relation to the member.

S. 35
inserted by
No. 78/2004
s. 7.

35 How to make a choice

- (1) A choice of a fund must be made by notice in writing signed by the member.
- (2) The choice notice must—
 - (a) specify the name of, and contact details for, the chosen fund;
 - (b) specify the start date from which the notice is to have effect, being the date the notice is given or a later date;

- (c) contain such other information (if any) as is prescribed.
- (3) The choice notice must be accompanied by evidence that the chosen fund will—
 - (a) accept contributions under this Part;
 - (b) comply with any requirements which are prescribed for the purposes of this section.
- (4) The administrator of a fund may reject a request that the fund be the chosen fund if the administrator considers that the fund will not be able to comply with any requirements which are prescribed for the purposes of this section.
- (5) The choice notice must be given to the administering authority.

36 Duration of a choice notice

If sections 33, 34 and 35 are complied with, a choice notice comes into force on the start date for the notice and remains in force until whichever of the following occurs first—

- (a) the contribution payable under this Part in respect of the month in which the member next ceases to be entitled to parliamentary salary has been paid; or
- (b) a revocation of the choice notice takes effect; or
- (c) the chosen fund ceases to exist; or
- (d) the chosen fund ceases to accept contributions under this Part; or
- (e) the chosen fund ceases to be a complying superannuation fund or an RSA.

S. 36
inserted by
No. 78/2004
s. 7.

S. 37
inserted by
No. 78/2004
s. 7.

37 Variation of a choice notice

- (1) The member may vary a choice notice he or she has given by notice in writing signed by the member and given to the administering authority.
- (2) The only variations that are permitted are—
 - (a) to change the chosen fund to another fund that is, at the time the notice is given—
 - (i) a complying superannuation fund; or
 - (ii) an RSA; or
 - (b) if the start date has not already occurred, to change the start date to a later date.
- (3) The notice of variation must specify a date from which the variation is to take effect, being the date on which the notice is given or a later date.
- (4) A notice of variation to change the chosen fund must—
 - (a) specify the name of, and contact details for, the new chosen fund;
 - (b) be accompanied by evidence that the new chosen fund will—
 - (i) accept contributions under this Part; and
 - (ii) comply with any requirements which are prescribed for the purposes of section 35.
- (5) Subject to any later variations, if the notice of variation complies with this section, it varies the choice notice accordingly with effect from the variation date.

Note

Complying superannuation funds include any self-managed funds which are complying superannuation funds.

38 Revocation of a choice notice

S. 38
inserted by
No. 78/2004
s. 7.

- (1) The member may revoke a choice notice he or she has given by a notice in writing—
 - (a) signed by the member; and
 - (b) given to the administering authority.
- (2) The notice of revocation must specify a date from which the revocation is to take effect, being the date on which the notice of revocation is given or a later date.
- (3) If the notice of revocation complies with this section, the revocation takes effect on the specified date.

39 Obligation to notify person of right to choose a fund

S. 39
inserted by
No. 78/2004
s. 7.

- (1) Within 28 days after the member becomes a person who, under section 33, can choose a fund as described in section 34, the administering authority must cause the member to be given a written notice containing the following information—
 - (a) a statement that the member may choose as the fund to which contributions in respect of the member will be paid under this Part—
 - (i) a complying superannuation fund; or
 - (ii) an RSA;

Note

Complying superannuation funds include any self-managed funds which are complying superannuation funds.

- (b) a statement to the effect that if the member does not choose a fund, the contributions will be paid to the fund or scheme that is, from time to time, the default fund;
- (c) such other information (if any) as is prescribed for the purposes of this section.

- (2) For the purposes of subsection (1), a person becomes a person who, under section 33, can choose a fund as described in section 34, on whichever of the following days applies—
 - (a) unless paragraph (b) applies, the first day of the relevant new scheme contribution period of the person; or
 - (b) if the day on which the person is declared to have been elected under section 121 of the **Electoral Act 2002** is later than the day applicable under paragraph (a), that later day.

Division 4—The default fund

40 Declaration of the default fund

- (1) The Minister may by notice published in the Government Gazette declare that a fund or scheme is the default fund for the purposes of this Part.
- (2) Before making a declaration under subsection (1), the Minister must consult with the Speaker and the President.
- (3) At the time the declaration is made, the fund or scheme must be a complying superannuation fund other than a self managed superannuation fund.
- (4) A declaration made under subsection (1) must specify the date of effect of the declaration which may be the day on which the notice is published or an earlier or later day.
- (5) The Minister must make a declaration under subsection (1) as soon as practicable after the commencement section 7 of the **Parliamentary Superannuation Legislation (Reform) Act 2004**.
- (6) The Minister must ensure that there is only one default fund at any one time.

S. 40
inserted by
No. 78/2004
s. 7.

- (7) The Minister may by notice published in the Government Gazette revoke a declaration made under subsection (1) at any time.
- (8) A revocation made under subsection (7) must specify the date of effect of the revocation which may be the day on which the notice is published or an earlier or later day.
- (9) If the Minister revokes a declaration made under subsection (1), the Minister must make another declaration under subsection (1) which takes effect immediately after the revocation takes effect.

Division 5—Miscellaneous

41 Salary sacrifice

- (1) A member may by notice in writing signed by the member elect to make member contributions by way of salary sacrifice.
- (2) An election under subsection (1) can only be made before the parliamentary salary to which the election is to apply is earned.
- (3) The notice under subsection (1) must—
 - (a) specify the percentage of his or her parliamentary salary not exceeding 50% which is to be used to make member contributions;
 - (b) be accompanied by evidence that the chosen fund or default fund will—
 - (i) accept contributions under this section; and
 - (ii) comply with any requirements which are prescribed for the purposes of this section.

S. 41
inserted by
No. 78/2004
s. 7.

- (4) The administrator of the chosen fund or default fund may reject a request under this section if the administrator considers that the fund will not be able to comply with any requirements which are prescribed for the purposes of this section.
- (5) The notice under subsection (1) must be given to the administering authority.
- (6) The member may vary a notice he or she has given under subsection (1) by notice in writing signed by the member and given to the administering authority.
- (7) The notice of variation must specify a date from which the variation is to take effect, being the date on which the notice is given or a later date.
- (8) The member may revoke a notice he or she has given under subsection (1) by a notice in writing—
 - (a) signed by the member; and
 - (b) given to the administering authority.
- (9) The notice of revocation must specify a date from which the revocation is to take effect, being the date on which the notice of revocation is given or a later date.
- (10) An election under this section does not affect the entitlement of a member to make additional superannuation contributions from his or her post tax salary.

S. 42
inserted by
No. 78/2004
s. 7.

42 Appropriation

The money required for the purposes of paying contributions under section 31 is to be paid out of the Consolidated Fund which is by virtue of this section appropriated to the necessary extent.

43 Regulations

The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Part to be prescribed or necessary to be prescribed to give effect to this Part.

S. 43
inserted by
No. 78/2004
s. 7.

Parliamentary Salaries and Superannuation Act 1968
No. 7723 of 1968

Sch.

SCHEDULE

Sch.
repealed by
No. 9863 s. 2.

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ENDNOTES

1. General Information

The **Parliamentary Salaries and Superannuation Act 1968** was assented to on 26 November 1968 and came into operation on 1 December 1968: Government Gazette 27 November 1968 page 3854.

Parliamentary Salaries and Superannuation Act 1968
No. 7723 of 1968

Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Parliamentary Salaries and Superannuation Act 1968** by Acts and subordinate instruments.

Parliamentary Salaries and Superannuation (Administration) Act 1969, No. 7800/1969

Assent Date: 22.4.69
Commencement Date: 22.4.69
Current State: All of Act in operation

Superannuation (Amendment) Act 1970, No. 8047/1970

Assent Date: 15.12.70
Commencement Date: 15.12.70
Current State: All of Act in operation

Parliamentary Salaries Act 1970, No. 8086/1970

Assent Date: 22.12.70
Commencement Date: 27.12.70: Government Gazette 23.12.70 p. 3969
Current State: All of Act in operation

Parliamentary Superannuation Act 1971, No. 8118/1971

Assent Date: 4.5.71
Commencement Date: 4.5.71
Current State: All of Act in operation

Parliamentary Salaries and Allowances Act 1973, No. 8530/1973

Assent Date: 18.12.73
Commencement Date: 23.12.73: Government Gazette 19.12.73 p. 4040
Current State: All of Act in operation

Parliamentary Salaries and Superannuation (Amendment) Act 1975, No. 8663/1975

Assent Date: 18.3.75
Commencement Date: 30.3.75: Government Gazette 26.3.75 p. 646
Current State: All of Act in operation

Parliamentary Salaries and Superannuation Act 1975, No. 8687/1975

Assent Date: 2.5.75
Commencement Date: 2.5.75
Current State: All of Act in operation

Parliamentary Allowances Act 1976, No. 8877/1976

Assent Date: 28.9.76
Commencement Date: 20.10.76: Government Gazette 20.10.76 p. 3051
Current State: All of Act in operation

Parliamentary Salaries and Superannuation Act 1978, No. 9117/1978

Assent Date: 16.5.78
Commencement Date: 16.5.78
Current State: All of Act in operation

Parliamentary Salaries and Superannuation Act 1968
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Parliamentary Salaries and Superannuation Act 1980, No. 9432/1980

Assent Date: 28.10.80
Commencement Date: S. 2 on 30.3.75; s. 3 on 12.8.80; ss 1, 4 on 28.10.80:
s. 1(3)
Current State: All of Act in operation

Parliamentary Superannuation Act 1982, No. 9753/1982

Assent Date: 13.7.82
Commencement Date: S. 4 on 30.6.82; s. 4(2); rest of Act on 13.7.82: s. 1(2)
Current State: All of Act in operation

Statute Law Revision (Repeals) Act 1982, No. 9863/1982

Assent Date: 5.1.83
Commencement Date: 5.1.83
Current State: All of Act in operation

Statute Law Revision Act 1984, No. 10087/1984

Assent Date: 22.5.84
Commencement Date: 22.5.84: subject to s. 3(2)
Current State: All of Act in operation

Borrowing and Investment Powers Act 1987, No. 13/1987

Assent Date: 12.5.87
Commencement Date: S. 24 on 14.10.87: Government Gazette 14.10.87:
p. 2712
Current State: This information relates only to the provision/s
amending the **Parliamentary Salaries and
Superannuation Act 1968**

State Superannuation Act 1988, No. 50/1988 (as amended by No. 81/1988)

Assent Date: 24.5.88
Commencement Date: S. 93(2)(Sch. 2 Pt 2 item 43) on 1.7.88: Government
Gazette 1.6.88 p. 1487
Current State: This information relates only to the provision/s
amending the **Parliamentary Salaries and
Superannuation Act 1968**

Parliamentary Salaries and Superannuation (Amendment) Act 1992, No. 56/1992

Assent Date: 14.8.92
Commencement Date: 14.8.92
Current State: All of Act in operation

**Parliamentary Salaries and Superannuation (Further Amendment) Act 1992,
No. 65/1992**

Assent Date: 17.11.92
Commencement Date: 17.11.92
Current State: All of Act in operation

Parliamentary Salaries and Superannuation (Basic Salary) Act 1993, No. 3/1993

Assent Date: 20.4.93
Commencement Date: 14.12.92: s. 2
Current State: All of Act in operation

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Superannuation (Compliance) Act 1993, No. 54/1993

Assent Date: 8.6.93
Commencement Date: Ss 1, 2, 10, 13 on 8.6.93: s. 2(1); rest of Act (except s. 4(4)) on 1.7.92: s. 2(2); s. 4(4) on 1.7.93: s. 2(3)
Current State: All of Act in operation

Public Sector Superannuation (Administration) Act 1993, No. 110/1993

Assent Date: 30.11.93
Commencement Date: Ss 101, 105 on 30.11.93: s. 2(1); ss 103, 104, 106, 107 on 1.12.93: s. 2(5); ss 102, 108 on 1.1.94: s. 2(6)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Medical Practice Act 1994, No. 23/1994

Assent Date: 17.5.94
Commencement Date: Ss 1, 2 on 17.5.94: s. 2(1); rest of Act on 1.7.94: Government Gazette 23.6.94 p. 1672
Current State: All of Act in operation

Superannuation Acts (Amendment) Act 1994, No. 58/1994

Assent Date: 15.6.94
Commencement Date: S. 4 on 30.11.93: s. 2(2); ss 7, 8, 10 on 1.1.94: s. 2(3); rest of Act on 15.6.94: s. 2(1)
Current State: All of Act in operation

Superannuation Acts (Further Amendment) Act 1994, No. 120/1994

Assent Date: 20.12.94
Commencement Date: Ss 33, 35 on 1.12.93: s. 2(4); ss 32, 34 on 31.12.93: s. 2(5); s. 36 on 20.12.94: s. 2(1)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Miscellaneous Acts (Omnibus Amendments) Act 1995, No. 100/1995

Assent Date: 5.12.95
Commencement Date: S. 10(Sch. 1 items 4.1, 4.2) on 30.4.96: Special Gazette (No. 45) 30.4.96 p. 1
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Superannuation Acts (Amendment) Act 1996, No. 4/1996

Assent Date: 18.6.96
Commencement Date: Ss 64, 68–70 on 18.6.96: s. 2(1); ss 65–67, 71–75 on 30.6.96: s. 2(12)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

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Miscellaneous Acts (Omnibus Amendments) Act 1996, No. 22/1996

Assent Date: 2.7.96
Commencement Date: Ss 28–30 on 2.7.96: s. 2(1)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Public Sector Management and Parliamentary Officers (Amendment) Act 1996, No. 24/1996

Assent Date: 2.7.96
Commencement Date: S. 32 on 2.7.96: s. 2(1)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Superannuation Acts (Further Amendment) Act 1996, No. 82/1996 (as amended by No. 50/1997)

Assent Date: 23.12.96
Commencement Date: S. 42(2)–(7) on 18.6.96: s. 2(2); s. 42(1) on 1.7.96: s. 2(2A); s. 43 on 2.7.96: s. 2(3); s. 44 on 1.1.97: s. 2(4); s. 45 on 23.12.96: s. 2(1)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Superannuation Acts (Miscellaneous Amendment) Act 1997, No. 50/1997

Assent Date: 11.6.97
Commencement Date: S. 18(3) on 11.6.97: s. 2(1)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 70) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Superannuation Acts (Amendment) Act 1998, No. 84/1998

Assent Date: 17.11.98
Commencement Date: S. 32 on 17.11.98: s. 2(1)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

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Superannuation Acts (Further Amendment) Act 1999, No. 13/1999

Assent Date: 11.5.99
Commencement Date: S. 7 on 11.5.99: s. 2(1)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Superannuation Acts (Amendment) Act 2000, No. 29/2000

Assent Date: 30.5.00
Commencement Date: S. 9(1) on 14.12.99: s. 2(2); ss 10, 11 on 31.5.00: s. 2(1); s. 9(2) on 5.11.02: s. 2(3) (Special Gazette 5.11.02 p. 1)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 96) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Statute Law Amendment (Relationships) Act 2001, No. 27/2001

Assent Date: 12.6.01
Commencement Date: S. 5(Sch. 3 item 3) on 23.8.01: Government Gazette 23.8.01 p. 1927
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Statute Law Further Amendment (Relationships) Act 2001, No. 72/2001

Assent Date: 7.11.01
Commencement Date: S. 5 on 23.8.01: s. 2(2)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Parliamentary Committees and Parliamentary Salaries and Superannuation Acts (Amendment) Act 2003, No. 3/2003

Assent Date: 15.4.03
Commencement Date: S. 10 on 16.4.03: s. 2
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Superannuation Acts (Family Law) Act 2003, No. 70/2003

Assent Date: 14.10.03
Commencement Date: S. 11(1) on 30.6.96: s. 2(2); ss 10, 11(2)(3) on 15.10.03: s. 2(1)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

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Parliamentary Committees Act 2003, No. 110/2003

Assent Date: 9.12.03
Commencement Date: S. 62 on 10.12.03: s. 2
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Parliamentary Salaries and Superannuation (Amendment) Act 2004, No. 55/2004

Assent Date: 21.9.04
Commencement Date: 1.7.04: s. 2
Current State: All of Act in operation

Parliamentary Superannuation Legislation (Reform) Act 2004, No. 78/2004

Assent Date: 9.11.04
Commencement Date: Ss 3–5, 6(1)(2), 7 on 10.11.04: s. 2(1)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Parliamentary Legislation (Governance Reform) Act 2005, No. 94/2005

Assent Date: 29.11.05
Commencement Date: Ss 25, 26 on 1.12.05: s. 2
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Health Professions Registration Act 2005, No. 97/2005

Assent Date: 7.12.05
Commencement Date: S. 182(Sch. 4 item 39) on 1.7.07: s. 2(3)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Parliamentary Legislation Amendment Act 2007, No. 4/2007

Assent Date: 20.3.07
Commencement Date: S. 9 on 21.3.07: s. 2
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

Parliamentary Salaries and Superannuation Amendment Act 2007, No. 41/2007

Assent Date: 28.8.07
Commencement Date: S. 3 on 1.7.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Parliamentary Salaries and Superannuation Act 1968**

3. Explanatory Details

¹ S. 11(3): Section 10(2)(3) of the **Miscellaneous Acts (Omnibus Amendments) Act 1995**, No. 100/1995 reads as follows:

10 Amendment of other Acts

- (2) A provision of an Act amended by an item in Schedule 1 continues to apply to or in respect of—
- (a) moneys borrowed or re-borrowed, loans, advances and financial accommodation obtained and financial arrangements entered into or performed and any other thing done under borrowing powers or powers to obtain financial accommodation conferred by the Act before the commencement of this section; and
 - (b) moneys borrowed or re-borrowed, loans, advances and financial accommodation obtained and any other thing done under borrowing powers or powers to obtain financial accommodation conferred by the Act after that commencement, pursuant to arrangements entered into before that commencement; and
 - (c) the investment of moneys or exercise of powers made before the commencement of that section—
- as if this section had not been enacted.
- (3) A guarantee given by or on behalf of the Government or State of Victoria or by the Treasurer and in force under an Act amended by an item in Schedule 1 before the commencement of this section has effect and may be enforced as if the guarantee were a contract made on behalf of the Crown and section 23(1)(a) of the **Crown Proceedings Act 1958** applied accordingly.

² S. 12(2D): See note 1.