

PARLIAMENTARY SUPERANNUATION LEGISLATION AMENDMENT BILL 1999

Council's Amendments - Consideration in Detail

The amendments made by the Council were as follows -

No 1

Clause 5, page 4, lines 13 and 14 - To delete the following words -
of the opposite sex to the member or former member

No 2

Clause 7, page 5, lines 26 and 27 - To delete "for the first time at" and substitute "after".

No 3

Clause 7, page 5, lines 27 and 28 - To delete the words "14 December 1996; or" and substitute "6 February 1993 and before closing day; and".

No 4

Clause 7, page 6, lines 1 and 2 - To delete the lines and substitute the following paragraph -

- (b) who, at the time of being so elected, was not entitled to any pension or other benefit under the scheme;

No 5

Clause 17, page 10, line 23 - To delete the words "are to" and substitute "may".

No 6

Clause 17, page 11, after line 1 - To insert the following new paragraph -

- (a) shall not have the effect of changing the scheme from being one under which former members are entitled to be paid a pension that is calculated as set out in section 14;

No 7

Clause 17, page 11, after line 5 - To insert the following new subparagraph -

- (ii) had accrued before the determination and to which a member who has contributed to the scheme for not less than 7 years but less than 12 years may become entitled under section 14(1)(b); or

No 8

Clause 17, page 11, after line 7 - To insert the following new paragraph -

- (b) shall not have the effect of changing the circumstances under which a member may qualify for a pension under section 14(1)(b);

No 9

Clause 20, page 13, lines 8 to 14 - To delete the clause.

Mr KIERATH: I move -

That amendment No 1 made by the Council be not agreed to.

This is one of the amendments upon which the Government has disagreement with the Opposition. The Attorney General made the point in debate in the other place on this amendment that it is inappropriate to make policy changes of this nature without proper consideration. The proposed amendment is within the limited area of parliamentary superannuation. No other parliamentary defined-benefit scheme in Australia recognises same-sex couples. The only one that could be loosely interpreted as having such a provision is the Tasmanian scheme, but only in relation to the new open accumulation scheme, of which only three of the current 40 parliamentarians are members.

None of the defined benefit schemes recognise same-sex couples and this Government does not propose anything different. As I said publicly, I do not have a problem with the people proposing this amendment doing it through the proper process. Like most of the clauses in this Bill, this clause was given thorough consideration before being introduced. I object to a last minute proposal such as this. In any event, the wording of the amendment will not achieve the desired result. It is not appropriate at the eleventh hour to seek a major policy

change. If the people concerned feel strongly enough, I invite them to seek the change through the proper procedures; that is, in the way most of the clauses in the Bill were handled.

Mr RIPPER: The Opposition believes that the amendment should be agreed to; it does not support discrimination on the grounds of sexual preference. Why should a couple be penalised who have loved each other and supported each other for years, shared finances and other domestic arrangements, and added to the sum total of happiness in the world? Do we not want people to care for each other and to be part of each other's social and economic safety net? Surely that should be an object of public policy in this State. Is that not the priority? That is why the Opposition supports the amendment.

We do not believe that conservative ideology in relation to families should lead us to perpetrating injustices against individuals. The priority should be to support people who care for each other, not to impose our ideology on people's sexual preferences.

All those things said, it must be appreciated that this amendment has limited scope. The amendment by itself will not guarantee that people will not be discriminated against on the basis of sexual preference. The amendment proposes to remove the reference to opposite sex in the clause relating to the ability of the board to recognise a *de facto* relationship. If the amendment is accepted the clause will read -

Without limiting the application of section 19A, a reference in this Act to a widow of a member or former member includes a reference to a person who, although not the legal spouse of the member or former member at the time of his death was at that time, in the opinion of the Board, the *de facto* spouse of the member.

If this amendment is agreed to, the board must still decide whether a person is the *de facto* spouse of the member. The legislation will not limit the board to considering only couples of opposite sex status when making that decision. However, it will not be required to consider that a same-sex couple is a *de facto* couple for the purpose of the legislation.

In effect, the amendment also has limited scope in that it can apply only to the old superannuation scheme. The legislation overall gives the Salaries and Allowances Tribunal power to construct a new superannuation scheme for members of Parliament. If that new scheme is like every other new superannuation scheme developed in this country in the past two decades, it will be a lump-sum scheme, rather than a defined-benefit scheme. As a lump-sum scheme, it will be blind to people's family arrangements. In other words, the new superannuation scheme for parliamentarians will not discriminate on the basis of sexual preference because it will not be based on family arrangements.

The Opposition believes that discrimination should be opposed. However, the Opposition points out that the amendment has limited scope because it does not guarantee that discrimination will not occur. It affects only the old scheme.

Question put and a division taken with the following result -

Ayes (25)

Mr Barnett	Mr Day	Mr Minson	Mr Trenorden
Mr Barron-Sullivan	Mrs Edwardes	Mr Omodei	Mrs van de Klashorst
Mr Board	Dr Hames	Mr Osborne	Mr Wiese
Mr Bradshaw	Mrs Hodson-Thomas	Mrs Parker	Mr Tubby (<i>Teller</i>)
Dr Constable	Mr Johnson	Mr Pandal	
Mr Court	Mr Kierath	Mr Prince	
Mr Cowan	Mr Masters	Mr Shave	

Noes (14)

Mr Brown	Mr Grill	Mr McGowan	Mr Thomas
Mr Carpenter	Mr Kobelke	Ms MacTiernan	Mr Cunningham (<i>Teller</i>)
Dr Edwards	Mr Marlborough	Mr Ripper	
Dr Gallop	Mr McGinty	Mrs Roberts	

Pairs

Mr House	Ms Anwyl
Mr Baker	Ms McHale
Mrs Holmes	Ms Warnock
Mr Minson	Mr Riebeling

Question thus passed; the Council's amendment not agreed to.

Mr KIERATH: I move -

That amendments Nos 2 to 4 made by the Council be not agreed to.

In pursuing some of the Opposition's concerns about these amendments the Opposition and the Government agreed they were not necessary and we would revert to the original Bill. The result of disagreeing to these amendments will be to delete the amendments that were moved in the other place that had the support of the Government and to revert to the original Bill.

Mr RIPPER: I support the motion. There has been some uncertainty from two perspectives on the exact meaning of the amendments that were carried in the upper House. That uncertainty delayed consideration of this legislation at the conclusion of the autumn sittings of this Chamber. In view of the uncertainty that has been raised about the meaning of the amendments, it is best that we revert to the original provisions of the legislation. If we revert to the original clauses of the Bill we revert to the original intention of the legislation, which was to give members elected at the last election a choice between the old scheme and the new scheme.

Question put and passed; the Council's amendments not agreed to.

Mr KIERATH: I move -

That amendments Nos 5 and 6 made by the Council be agreed to.

The Government accepted these amendments in the other place to make clear that new section 28(3)(g) does not allow the tribunal to change the current pension scheme to a lump sum scheme. Amendment No 6 provides that the scheme shall not be changed from one under which former members are entitled to be paid a pension, as calculated and set out in section 14 of the Parliamentary Superannuation Act.

Mr RIPPER: The Opposition supports the motion. The amendments agreed to in the upper House clarify and confirm the declared policy behind the legislation.

Question put and passed; the Council's amendments agreed to.

Mr KIERATH: I move -

That amendments Nos 7 and 8 made by the Council be agreed to.

These amendments ensure that the tribunal cannot reduce a member's accrued benefits that are conditional upon the member's meeting the qualification criteria. This relates to members who have served no fewer than seven years but fewer than 12 years.

Mr RIPPER: The Opposition supports the motion. These amendments clarify and confirm the policy behind the legislation. They are consistent with the way in which superannuation reform has been treated across society. The general principle has been that when superannuation reform occurs, people's existing entitlements are not

Mr Graham Kierath; Question Thus Passed; The Council's Amendment Not Agreed to.; Mr Eric Ripper

affected, and new arrangements are made from a point in time to apply in the future. These amendments are consistent with that general approach to superannuation reform, which is to make changes for the future but not to attack benefits that people have accrued or developed an expectation that they had accrued in the past.

Question put and passed; the Council's amendments agreed to.

Mr KIERATH: I move -

That amendment No 9 made by the Council be agreed to.

This relates to the ruling by the President in the other place that there was no nexus between clause 20 and the other clauses in the Bill, and we have agreed to strike out this clause.

Question put and passed; the Council's amendment agreed to.

The Council acquainted accordingly.