

Parliamentary Superannuation Amendment Bill 2011

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Western Australia

LEGISLATIVE ASSEMBLY

**Parliamentary Superannuation Amendment
Bill 2011**

A Bill for

An Act to amend the *Parliamentary Superannuation Act 1970*.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Parliamentary Superannuation Amendment*
3 *Act 2011*.

4 **2. Commencement**

5 This Act comes into operation as follows —

- 6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;
- 8 (b) the rest of the Act — on a day fixed by proclamation,
9 and different days may be fixed for different provisions.

10 **3. Act amended**

11 This Act amends the *Parliamentary Superannuation Act 1970*.

12 **4. Section 5 amended**

13 In section 5(1) insert in alphabetical order:

14

15 *benefit certificate* has the meaning given in the
16 SG(A) Act section 10;

17 *complying superannuation fund* has the meaning
18 given in the SG(A) Act section 7;

19 *individual superannuation guarantee shortfall* has the
20 meaning given in the SG(A) Act section 19;

21 *SG(A) Act* means the *Superannuation Guarantee*
22 *(Administration) Act 1992* (Commonwealth);
23

24 **5. Section 6 amended**

25 (1) Delete section 6(3)(b) and insert:

- 26
- 27 (b) 5 other Board members, of whom —
- 28 (i) 2 are to be appointed by the Legislative
29 Council from members of the Council;
30 and

- 1 (ii) 2 are to be appointed by the Legislative
2 Assembly from members of the
3 Assembly; and
4 (iii) one is to be appointed by the Minister
5 from former members to whom the
6 scheme applies.
7
- 8 (2) In section 6(4) delete “subsection (3)(b)” and insert:
9
10 subsection 3(b)(i) and (ii)
11
- 12 (3) After section 6(4) insert:
13
14 (5A) The Minister is to make an appointment under
15 subsection (3)(b)(iii) whenever required to fill a
16 vacancy.
17
- 18 (4) In section 6(6):
19 (a) delete “member —” and insert:
20
21 member appointed under subsection (3)(b)(i) or (ii) —
22
23 (b) after paragraphs (a) and (b) insert:
24
25 and
26
- 27 (5) After section 6(6) insert:
28
29 (7) A Board member appointed under
30 subsection (3)(b)(iii) —
31 (a) may be removed by the Minister; and

s. 6

- 1 (b) may resign by notice in writing to the Minister;
2 and
3 (c) ceases to hold office on the day fixed for the
4 taking of the poll next following a dissolution
5 or expiry of the Legislative Assembly.
6

7 **6. Section 7 amended**

8 In section 7(2) delete “3” and insert:
9

10 4
11

12 **7. Section 10 deleted**

13 Delete section 10.

14 **8. Section 14 amended**

15 (1) In section 14(1)(b) after each of subparagraphs (i), (ia) and (ii)
16 insert:
17

18 or
19

20 (2) In section 14(1aa) after paragraph (a) insert:
21

22 and
23

24 (3) In section 14(1a)(b) after each of subparagraphs (i) and (iii)
25 insert:
26

27 and
28

1 (4) In section 14(3) after “at the rate” insert:
2

3 of 10% per annum or at such other rate as may be
4

5 **9. Section 16 amended**

6 After section 16(2)(a) insert:
7

8 and
9

10 **10. Section 19 amended**

11 Delete section 19(4) and (5) and insert:
12

13 (4) A pension is not payable under this section to a spouse
14 or de facto partner referred to in subsection (1) or (1a)
15 if the marriage to the former member took place after
16 the former member finally ceased to be a member
17 except in the following cases —

18 (a) if the former member died before the coming
19 into operation of the *Parliamentary*
20 *Superannuation Amendment Act 2011*
21 section 10 a pension is payable —

22 (i) if the spouse or de facto partner is aged
23 55 years or more at the date of the
24 former member’s death, as from that
25 date; or

26 (ii) if the spouse or de facto partner is aged
27 less than 55 years at the date of the
28 former member’s death, as from the
29 date of attaining that age;

30 (b) if the former member dies on or after the
31 coming into operation of the *Parliamentary*

Superannuation Amendment Act 2011

section 10 a pension is payable if —

- (i) the marriage took place not less than 5 years before the date of the former member's death; or
 - (ii) at the date of the former member's death there is at least one child of the former member and the spouse or de facto partner who is wholly or substantially dependent on them; or
 - (iii) the Board is satisfied that —
 - (I) the marriage was of a bona fide nature; and
 - (II) the special circumstances of the case warrant the payment of a pension to the spouse or de facto partner;
- (c) if the former member dies on or after the coming into operation of the *Parliamentary Superannuation Amendment Act 2011* section 10 and the marriage to the former member took place before the coming into operation of that Act and no pension is payable under paragraph (b) a pension is payable —
 - (i) if the spouse or de facto partner is aged 55 years or more at the date of the former member's death, as from that date; or
 - (ii) if the spouse or de facto partner is aged less than 55 years at the date of the former member's death, as from the date of attaining that age.

1 **11. Section 19B amended**

- 2 (1) In section 19B(1) delete “A spouse or de facto partner of a
3 member” and insert:

4
5 Where a member dies before the coming into
6 operation of the *Parliamentary Superannuation*
7 *Amendment Act 2011* section 11, a spouse or de facto
8 partner of the member
9

- 10 (2) After section 19B(1) insert:

11
12 (2A) Where a member or former member dies on or after the
13 coming into operation of the *Parliamentary*
14 *Superannuation Amendment Act 2011* section 11, a
15 spouse or de facto partner of the member or former
16 member who becomes entitled to be paid an annual
17 pension pursuant to section 19 may elect, by notice in
18 writing served on the Board within 6 months of so
19 becoming entitled, to convert to a lump sum payment
20 determined in accordance with subsection (2) all or
21 part of the annual pension entitlement.
22

- 23 (3) In section 19B(2) after “subsection (1)” (each occurrence)
24 insert:

25
26 or (2A)
27

28 **12. Section 23 amended**

29 In section 23(1):

- 30 (a) in paragraph (c) delete “3%” and insert:

31
32 5%
33

s. 13

1 (b) in paragraph (d) delete “6%” and insert:

2

3 10%

4

5 **13. Section 24 replaced**

6 Delete section 24 and insert:

7

8 **24. Minimum Benefits**

9 (1) Subject to subsection (2), the Board is to pay a
10 minimum benefit to or in respect of each member of —

11 (a) the amount of the member’s contributions with
12 interest at the rate of 10% per annum; plus

13 (b) any further amount which, in the opinion of an
14 actuary who prepares a benefit certificate in
15 relation to the member, the scheme must
16 provide if the individual superannuation
17 guarantee shortfall for the member is to be nil.

18 (2) The Tribunal may from time to time inquire into and
19 determine an alternative basis for calculating the
20 amount of the minimum benefits payable under the
21 scheme having regard to the SG(A) Act, and the Board
22 is to pay minimum benefits in accordance with any
23 determination.

24

25 **14. Section 29 amended**

26 Delete section 29(1) and insert:

27

28 (1) In this section —

29 *non-participant* means a member in respect of whom
30 contributions have never been made to the scheme or a
31 member who has during the period beginning on

10 October 2000 and ending on 30 June 2001 elected to cease participating in the scheme.

15. Various provisions amended to remove gender-specific language

Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
s. 5(1) def. of <i>salary</i> par. (a)	the basic salary of the member together with any salary paid to him	the member's basic salary together with any salary
s. 5(1) def. of <i>salary</i> par. (b)	the basic salary of the member together with any additional remuneration paid to him	the member's basic salary together with any additional remuneration paid
s. 5(1) def. of <i>salary</i> par. (b)	payable to him	payable to the member
s. 5(2)	his	
s. 6(5)	on his behalf	on behalf of the Minister
s. 6(6)(a)	he	the member
s. 6(6)(c)	if he ceases	upon ceasing
s. 13(1) def. of <i>basic pension</i>	he ceased	ceasing

s. 15

Provision	Delete	Insert
s. 13(2)	he so contributed	the person so contributed
s. 13(2)	which he received	received
s. 14(1)(b)(i)	when he so ceases	upon so ceasing
s. 14(1)(b)(ii), (iii) and (iv)	his	
s. 14(1aa)	he (first occurrence)	the member
s. 14(1aa)(a) and (b)	he	the member
s. 14(1aa)(c)	his (each occurrence)	the member's
s. 14(1a)(a)(i)	he shall, whether or not he is elected	the member shall, whether or not elected
s. 14(1a)(a)(i)	his resignation	the resignation
s. 14(1a)(a)(i)	he pays	the member pays
s. 14(1a)(a)(i)	he would have been required to make had he continued	would have been required had the member continued

Provision	Delete	Insert
s. 14(1a)(a)(i)	if he is defeated at the election for the Legislative Assembly he shall be entitled to the same pension, if any, to which he would have been entitled if he had ceased	the member, if defeated at the election for the Legislative Assembly, shall be entitled to the same pension, if any, to which the member would have been entitled on ceasing
s. 14(1a)(a)(i)	his being defeated	being defeated
s. 14(1a)(a)(ii)	he (each occurrence)	the member
s. 14(1a)(a)(ii)	his death (each occurrence)	death
s. 14(1a)(a)(ii)	his spouse	the member's spouse
s. 14(1a)(a)(ii)	his resignation	the resignation
s. 14(1a)(b)(i)	he shall, if he is elected	the member shall, if elected
s. 14(1a)(b)(i)	the day on which he ceased	the day of ceasing
s. 14(1a)(b)(i)	he becomes	the member becomes
s. 14(1a)(b)(i)	he pays	the member pays
s. 14(1a)(b)(i)	he would have been required to make if he had continued	would have been required had the member continued

s. 15

Provision	Delete	Insert
s. 14(1a)(b)(iii)	he shall, if he is defeated	the member shall, if defeated
s. 14(1a)(b)(iii)	he would have been entitled if he had been defeated	the member would have been entitled, if defeated
s. 14(1a)(b)(iv)	he shall, if he dies	the member shall, in the event of dying
s. 14(1a)(b)(iv)	his death (each occurrence)	death
s. 14(1a)(b)(iv)	his spouse	the member's spouse
s. 14(1a)(b)(iv)	he shall be deemed	the member shall be deemed
s. 14(1a)(b)(iv)	the day on which he ceased	the day of ceasing
s. 14(3)	he	the person
s. 14(3)	contributions made by him	the person's contributions
s. 14(3)	to him	
s. 14(3a)	he	that person
s. 14(4) and (5)	he (each occurrence)	that person
s. 14(6)	his	an
s. 16(1)	his so ceasing	so ceasing

Provision	Delete	Insert
s. 16(1)	his annual	the person's annual
s. 16(2)(a)	when he ceases	on ceasing
s. 16(2)(a)	before he ceases	before ceasing
s. 16(2)(b)	before he ceases	before ceasing
s. 16(2)(b)	when he ceases	on ceasing
s. 16(3)	when he so ceased (each occurrence)	on so ceasing
s. 16(3)	he (first occurrence)	the former member
s. 16(3)(a) and (b)	he	the former member
s. 16(4)	his (first occurrence)	the former member's
s. 16(4)	his (second occurrence)	the
s. 17(1)	his (first occurrence)	an
s. 17(1)	he again became	again becoming
s. 17(1)	he would	that person would
s. 17(1)	if he had not so converted	but for so converting
s. 17(1)	his (second occurrence)	the

s. 15

Provision	Delete	Insert
s. 17(2)	the amount of annual pension payable to him under this Act	the annual amount of the pension
s. 18(1)	she is entitled until her death	the spouse is entitled until death
s. 18(2)	his	
s. 18(3)	she (each occurrence)	the spouse or de facto partner
s. 18A	her	the
s. 18B	her (each occurrence)	the
s. 19(1)	her	
s. 19(1)(a)	he	the former member
s. 19(1)(a)	his	the former member's
s. 19(1)(b)	he had not died and if he had retired	the former member had not died but retired
s. 19(1)(b)	his death	death
s. 19(1)(b)	his pension	the former member's pension
s. 19(1b)(a)	his	an
s. 19(1b)(b)	his (first occurrence)	an

Provision	Delete	Insert
s. 19(1b)(b)	his (last occurrence)	the
s. 19(2)	her death	death
s. 19(2)	to the member if he	if the member
s. 19(2)	his death	the member's death
s. 19(3)	her death	death
s. 19(3)(a)	he had	the member had
s. 19(3)(a)	the same day as that on which he died	the date of death
s. 19(3)(b)	he had	the member had
s. 19(3)(b)	the same day as that on which he died	the date of death
s. 19B(1)	her	the
s. 19B(2)(a)	when she becomes	on becoming
s. 19B(2)(a)	before she became	before becoming
s. 19B(2)(b)	before she became	before becoming
s. 19B(2)(b)	when she becomes	on becoming
s. 20(1)	he may	the person may
s. 20(1)(a)	his	
s. 20(1)(a)	so made to him	made under section 14(3)

s. 15

Provision	Delete	Insert
s. 20(1)(b)	he continues	the person continues
s. 20(1)(b)	so made to him	made under section 14(3)
s. 21	his	the
s. 22	him	the former member
s. 22	he receives	received
s. 23(1)	his	
s. 23(2)	his	an
s. 30	his spouse or de facto partner (first occurrence)	the spouse or de facto partner of the member
s. 30	or his spouse or de facto partner or children	or the spouse or de facto partner or children of the member or former member
s. 30	to his spouse	to the spouse

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