

# **SUPERANNUATION LEGISLATION AMENDMENT BILL 2002**

## **EXPLANATORY NOTES**

### **Short Title**

The short title of the Bill is the *Superannuation Legislation Amendment Bill 2002*.

### **Policy objectives of the Bill and reasons for them**

The Bill provides for the amendment of the *Governors' Pensions Act 1977*, the *Judges (Pensions and Long Leave) Act 1957*, the *Parliamentary Contributory Superannuation Act 1970*, and the *Public Officers' Superannuation Benefits Recovery Act 1988* in the manner outlined below.

The amendments to the *Governors' Pensions Act 1977* (the *Governors Act*) and the *Judges (Pensions and Long Leave) Act 1957* (the *Judges Act*) are to:

- name the respective Minister as the person who manages the scheme for the purposes of the Commonwealth Government's superannuation surcharge legislation; and
- in respect of the *Judges Act* only, remove the requirement that a pension cease upon remarriage of a widow of a judge or a retired judge.

The amendments to the *Parliamentary Contributory Superannuation Act 1970* (the *Parliamentary Act*) are to:

- ensure that only one total widows' benefit is payable in the event a deceased member or former member were to leave both a legal spouse and a de facto partner;
- allow former members or other persons in receipt of a pension to commute part of that pension entitlement to a lump-sum to meet surcharge debts; and
- make minor technical amendments.

The amendments to the *Public Officers Superannuation Benefits Recovery Act 1988* (the Recovery Act) are to:

- make a minor technical amendment.

**The way that the Bill achieves the policy objectives and why this approach is reasonable and appropriate**

The Queensland Government had received legal advice that in respect of the Judges' and Governors' pension schemes, the Commonwealth Government's surcharge regime depends on the existence of a 'superannuation provider'. In the absence of an identifiable 'superannuation provider' for the Judges' and Governors' schemes, the Solicitor-General advised the surcharge regime may be inoperative. The Bill will provide that the respective Minister in relation to the Judges and Governors Acts is taken to be the person who manages each scheme. This will overcome the above obstacle and allow the surcharge to be applied to Queensland Judges and the Governor, thus ensuring consistency with all other high income earners.

In respect of the Judges Act, this Bill seeks to remove the requirement that a pension cease upon remarriage of a widow, to be consistent with the treatment of widows' pensions under the Parliamentary Act.

In respect of the Parliamentary Act, these amendments clarify that if a deceased member or former member were to leave both a legal spouse and a de facto partner surviving, only one entitlement is payable, with the apportionment of that entitlement to be determined by the Board of Trustees of the Parliamentary Contributory Superannuation Fund.

The Bill allows former members or other persons to commute part of their Parliamentary pension entitlement to meet any personal surcharge debts received after the date of resignation. These amendments will provide for consistency relative to the Commonwealth Parliamentary superannuation scheme. In addition, minor technical amendments are being made to the Parliamentary Act.

The Bill amends the Recovery Act to update a reference to a repealed Act.

**Reasonable alternatives for achieving the policy objectives and why the alternatives were not adopted.**

There are no alternatives considered appropriate for achieving these policy objectives.

**Administrative cost to the Government in implementing this Bill**

The costs associated with implementing this Bill are expected to be minimal.

**Consistency of the Bill with Fundamental Legislative Principles**

The Bill conforms to the fundamental legislative principles.

**Consultation on the Bill**

Consultation has taken place with the following:

- the Department of Justice and Attorney-General;
- the Department of the Premier and Cabinet; and
- the Government Superannuation Office.

**NOTES ON CLAUSES****PART 1—PRELIMINARY**

*Clause 1* of the Bill sets out the short title of the proposed Act.

*Clause 2* of the Bill provides for the commencement date of the proposed Act. The Bill will commence on a date to be fixed by proclamation.

**PART 2—AMENDMENT OF THE *GOVERNORS’ PENSION ACT 1977***

*Clause 3* provides that the Bill amends the *Governors’ Pensions Act 1977*.

*Clause 4* inserts a new section to specify that the Minister is to be the manager of the scheme for Commonwealth Government surcharge purposes.

**PART 3—AMENDMENT OF THE *JUDGES (PENSIONS AND LONG LEAVE) ACT 1957***

*Clause 5* provides that the Bill amends the *Judges (Pensions and Long Leave) Act 1957*.

*Clauses 6 and 7* remove the requirement that a pension cease upon the remarriage of a widow of a judge or former judge.

*Clause 8* inserts a new section to specify that the Minister is to be the manager of the scheme for Commonwealth Government surcharge purposes.

**PART 4—AMENDMENT OF THE *PARLIAMENTARY CONTRIBUTORY SUPERANNUATION ACT 1970***

*Clause 9* provides that the Bill amends the *Parliamentary Contributory Superannuation Act 1970* (the Parliamentary Act).

*Clause 10* inserts a new section to ensure that only one total widows’ benefit is payable in the event of the death of a member or a former member. It is possible for a deceased member to leave both a legal spouse and defacto spouse, and the section ensures that only one total benefit is payable in this circumstance, in proportions determined by the Trustees of the Parliamentary Contributory Superannuation Fund.

*Clause 11* inserts a new section to allow a member or another person deriving an entitlement through a former member to commute a part of a pension benefit to a lump sum to meet a surcharge liability.

The *Schedule* to the Bill makes minor technical amendments to the Parliamentary Act.

## **PART 5—AMENDMENT OF THE *PUBLIC OFFICERS’ SUPERANNUATION BENEFITS RECOVERY ACT 1988***

*Clause 12* provides that the Bill amends the *Public Officers’ Superannuation Benefits Recovery Act 1988* (the Recovery Act).

*Clause 13* makes a minor technical amendment to the Recovery Act to correct a reference to the now repealed *Common Law Practice Act 1867*.