



Queensland

# **Superannuation Legislation Amendment Bill 2004**





Queensland

# Superannuation Legislation Amendment Bill 2004

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# 2004

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## A Bill

for

***An Act to amend the *Governors (Salary and Pensions) Act 2003*, *Judges (Pensions and Long Leave) Act 1957*, *Parliamentary Contributory Superannuation Act 1970*, *Superannuation Legislation Amendment Act 2003* and *Superannuation (State Public Sector) Act 1990****

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<b>The Parliament of Queensland enacts—</b>		1
<b>Part 1</b>	<b>Preliminary</b>	2
<b>Clause 1</b>	<b>Short title</b>	3
	This Act may be cited as the <i>Superannuation Legislation Amendment Act 2004</i> .	4 5
<b>Clause 2</b>	<b>Commencement</b>	6
	This Act, other than part 5, commences on a day to be fixed by proclamation.	7 8
<b>Part 2</b>	<b>Amendment of Governors (Salary and Pensions) Act 2003</b>	9 10
<b>Clause 3</b>	<b>Act amended in pt 2</b>	11
	This part amends the <i>Governors (Salary and Pensions) Act 2003</i> .	12 13
<b>Clause 4</b>	<b>Insertion of new pt 3, div 3, sdiv 2</b>	14
	Part 3, division 3, after section 16—	15
	<i>insert—</i>	16
	<b>‘Subdivision 2 Provisions for agreements and court orders under Family Law Act</b>	17 18
<b>‘16A</b>	<b>Definitions for sdiv 2</b>	19
	‘In this subdivision—	20



<i>agreement</i> means an agreement mentioned in the definition <i>entitled former spouse</i> .	1 2
<i>court order</i> means a court order mentioned in the definition <i>entitled former spouse</i> .	3 4
<i>entitled former spouse</i> means a person who is entitled or conditionally entitled under an agreement, or a court order, under the Family Law Act, part VIIIIB, <sup>1</sup> to payment of a part of a benefit that would otherwise be payable under this Act to a former Governor.	5 6 7 8 9
<i>Family Law Act</i> means the <i>Family Law Act 1975</i> (Cwlth).	10
<i>operative time</i> , for an agreement or court order, is the time that is, under the Family Law Act, part VIIIIB, the operative time in relation to the payment split or payment flag under the agreement or order.	11 12 13 14
<b>‘16B Providing information</b>	15
‘(1) This section applies if an eligible person within the meaning of the Family Law Act, section 90MZB, <sup>2</sup> applies under that section to the Minister for information about a benefit that is being paid, or may become payable, under this Act.	16 17 18 19
‘(2) The Minister must give to the eligible person the information as required under the Family Law Act.	20 21
‘(3) If the information is about a benefit for the Governor, the information may include an accrued benefit multiple for the benefit decided by the Minister on the advice of an actuary.	22 23 24
<b>‘16C Agreement or court order—minimum benefit</b>	25
‘(1) This section applies if—	26
(a) the Minister receives an agreement or court order that relates to a person who, at the operative time for the agreement or order, is the Governor; and	27 28 29

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1 The Family Law Act, part VIIIIB (Superannuation interests)

2 The Family Law Act, section 90MZB (Trustee to provide information)

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- (b) the benefit that becomes payable under this Act in relation to the person is a minimum benefit under section 13.<sup>3</sup>
- ‘(2) The Minister must pay to an approved deposit fund, or a superannuation fund, nominated by the entitled former spouse for the agreement or court order the amount to which he or she is entitled under the agreement or order.
- ‘(3) However, if the entitled former spouse does not nominate a fund for subsection (2) within 3 months after the day the minimum benefit becomes payable, the Minister must pay the amount to the State Public Sector Superannuation Fund on behalf of the entitled former spouse.
- ‘(4) The Minister must reduce the benefit that, other than for the agreement or court order, would be payable under this Act in relation to the person mentioned in subsection (1) by the amount paid to the entitled former spouse.
- ‘(5) This section does not apply to an agreement or court order if section 16E applies to the agreement or order.
- ‘(6) In this section—
- State Public Sector Superannuation Fund* means the State Public Sector Superannuation Fund under the *Superannuation (State Public Sector) Act 1990*.
- ‘16D Agreement or court order—pension**
- ‘(1) This section applies if—
- (a) the Minister receives an agreement or court order that relates to a person who, at the operative time for the agreement or order, is a former Governor or the Governor; and
- (b) the benefit that is being paid, or becomes payable, under this Act to the person is a pension (a *relevant benefit*).
- ‘(2) Subject to subsection (4), the Minister must pay the entitled former spouse for the agreement or court order the proportion, stated in the agreement or order, of the relevant benefit to

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3 Section 13 (Minimum benefit payable)

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- which he or she is entitled under the agreement or order (the *spousal amount*). 1  
2
- ‘(3) The Minister must reduce the relevant benefit that, other than 3  
for the agreement or court order, would be payable under this 4  
Act to the person mentioned in subsection (1) by the spousal 5  
amount. 6
- ‘(4) The Minister must pay the entitled former spouse a pension 7  
for his or her lifetime (a *lifetime pension*) if the entitled 8  
former spouse elects, by written notice given to the Minister, 9  
to be paid a lifetime pension. 10
- ‘(5) The notice must be given to the Minister— 11
- (a) if the Minister receives the agreement or court order 12  
before the relevant benefit becomes payable—within 13  
3 months after it becomes payable; or 14
- (b) otherwise—within 3 months after the day the Minister 15  
receives the agreement or order. 16
- ‘(6) If the entitled former spouse elects to be paid a lifetime 17  
pension, the amount of the pension must be calculated in the 18  
way decided by the Minister on the advice of an actuary. 19
- ‘16E Agreement or court order—death of Governor in office 20**
- ‘(1) This section applies if the Minister receives an agreement or 21  
court order that relates to a person who— 22
- (a) is the Governor at the operative time for the agreement 23  
or order; and 24
- (b) dies while holding office. 25
- ‘(2) The Minister must pay the entitled former spouse for the 26  
agreement or court order a pension for his or her lifetime (a 27  
*lifetime pension*). 28
- ‘(3) The amount of the lifetime pension must be— 29
- (a) calculated in the way decided by the Minister on the 30  
advice of an actuary; and 31
- (b) based on the proportion, stated in the agreement or court 32  
order, of the pension that would have been payable to 33  
the person mentioned in subsection (1) if the person had 34

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	been entitled to the pension under section 7 <sup>4</sup>	1
	immediately before the person's death.	2
<b>'16F</b>	<b>Effect of agreement or court order on particular pensions</b>	3
		4
	‘Despite section 7(4) or (5), 8(4), or 9(4), <sup>5</sup> an entitled former spouse is not entitled to receive a pension under any of the provisions.	5
		6
		7
<b>'16G</b>	<b>Minister to inform entitled former spouse</b>	8
	‘If the Minister receives an agreement or court order from a person other than the entitled former spouse for the agreement or order, the Minister must as soon as practicable inform the entitled former spouse of the receipt of the agreement or order.’.	9
		10
		11
		12
		13
<b>Clause 5</b>	<b>Amendment of schedule (Dictionary)</b>	14
	Schedule—	15
	<i>insert—</i>	16
	<b><i>‘agreement</i></b> , for part 3, division 3, subdivision 2, see section 16A.	17
		18
	<b><i>court order</i></b> , for part 3, division 3, subdivision 2, see section 16A.	19
		20
	<b><i>entitled former spouse</i></b> , for part 3, division 3, subdivision 2, see section 16A.	21
		22
	<b><i>Family Law Act</i></b> , for part 3, division 3, subdivision 2, see section 16A.	23
		24
	<b><i>operative time</i></b> , for part 3, division 3, subdivision 2, see section 16A.’.	25
		26

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4 Section 7 (Pension relating to Governor appointed after commencement)

5 Section 7 (Pension relating to Governor appointed after commencement), 8 (Pension relating to Governor holding office immediately before commencement) or 9 (Provisions relating to each former Governor to whom a pension is payable before commencement)

<b>Part 3</b>	<b>Amendment of Judges (Pensions and Long Leave) Act 1957</b>	1 2 3
<b>Clause 6</b>	<b>Act amended in pt 3</b> This part amends the <i>Judges (Pensions and Long Leave) Act 1957</i> .	4 5 6
<b>Clause 7</b>	<b>Amendment of s 2 (Definitions)</b> (1) Section 2, ‘In this Act—’— <i>omit, insert—</i> ‘The dictionary in the schedule defines particular words used in this Act.’ (2) Section 2— <i>insert—</i> ‘ <i>agreement</i> , for part 2, division 2, see section 9. <i>approved deposit fund</i> see the <i>Superannuation Industry (Supervision) Act 1993</i> (Cwlth), section 10. <sup>6</sup> <i>court order</i> , for part 2, division 2, see section 9. <i>entitled former spouse</i> , for part 2, division 2, see section 9. <i>Family Law Act</i> , for part 2, division 2, see section 9. <i>operative time</i> , for part 2, division 2, see section 9.	7 8 9 10 11 12 13 14 15 16 17 18 19 20

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6 *Superannuation Industry (Supervision) Act 1993* (Cwlth), section 10—  
*approved deposit fund* means a fund that—

- (a) is an indefinitely continuing fund; and
- (b) is maintained by—
  - (i) an approved trustee; or
  - (ii) an RSE licensee that is a constitutional corporation; and
- (c) is maintained solely for approved purposes.

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*superannuation fund* see the *Superannuation Industry (Supervision) Act 1993* (Cwlth), section 10.<sup>7</sup>.

- (3) Section 2, definitions (as amended)— 3  
*relocate* to the schedule as inserted by this Act. 4

**Clause 8 Insertion of new pt 2, div 2** 5

After section 8B— 6

*insert*— 7

**‘Division 2 Provisions for agreements and court orders under Family Law Act** 8  
9

**‘9 Definitions for div 2** 10

‘In this division— 11

*agreement* means an agreement mentioned in the definition *entitled former spouse*. 12  
13

*court order* means a court order mentioned in the definition *entitled former spouse*. 14  
15

*entitled former spouse* means a person who is entitled or conditionally entitled under an agreement, or a court order, under the Family Law Act, part VIIIIB,<sup>8</sup> to payment of a part of a benefit that would otherwise be payable under this Act to a retired judge. 16  
17  
18  
19  
20

*Family Law Act* means the *Family Law Act 1975* (Cwlth). 21

*operative time*, for an agreement or court order, is the time that is, under the Family Law Act, part VIIIIB, the operative 22  
23

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<sup>7</sup> *Superannuation Industry (Supervision) Act 1993* (Cwlth), section 10—  
*superannuation fund* means—

- (a) a fund that—  
(i) is an indefinitely continuing fund; and  
(ii) is a provident, benefit, superannuation or retirement fund; or  
(b) a public sector superannuation fund.

<sup>8</sup> The Family Law Act, part VIIIIB (Superannuation interests)

	time in relation to the payment split or payment flag under the agreement or order.	1 2
<b>'10</b>	<b>Providing information</b>	3
	'(1) This section applies if an eligible person within the meaning of the Family Law Act, section 90MZB, <sup>9</sup> applies under that section to the Minister for information about a benefit that is being paid, or may become payable, under this Act.	4 5 6 7
	'(2) The Minister must give to the eligible person the information as required under the Family Law Act.	8 9
	'(3) If the information is about a benefit for a judge, the information may include an accrued benefit multiple for the benefit decided by the Minister on the advice of an actuary.	10 11 12
<b>'11</b>	<b>Agreement or court order—minimum benefit</b>	13
	'(1) This section applies if—	14
	(a) the Minister receives an agreement or court order that relates to a person who, at the operative time for the agreement or order, is a judge; and	15 16 17
	(b) the benefit that becomes payable under this Act in relation to the person is a minimum benefit under section 2C. <sup>10</sup>	18 19 20
	'(2) The Minister must pay to an approved deposit fund, or a superannuation fund, nominated by the entitled former spouse for the agreement or court order the amount to which he or she is entitled under the agreement or order.	21 22 23 24
	'(3) However, if the entitled former spouse does not nominate a fund for subsection (2) within 3 months after the day the minimum benefit becomes payable, the Minister must pay the amount to the State Public Sector Superannuation Fund on behalf of the entitled former spouse.	25 26 27 28 29
	'(4) The Minister must reduce the benefit that, other than for the agreement or court order, would be payable under this Act in	30 31

<sup>9</sup> The Family Law Act, section 90MZB (Trustee to provide information)

<sup>10</sup> Section 2C (Minimum benefit payable)

relation to the person mentioned in subsection (1) by the amount paid to the entitled former spouse. 1  
2

‘(5) This section does not apply to an agreement or court order if section 13 applies to the agreement or order. 3  
4

‘(6) In this section— 5

*State Public Sector Superannuation Fund* means the State Public Sector Superannuation Fund under the *Superannuation (State Public Sector) Act 1990*. 6  
7  
8

**‘12 Agreement or court order—pension 9**

‘(1) This section applies if— 10

(a) the Minister receives an agreement or court order that relates to a person who, at the operative time for the agreement or order, is a judge or a retired judge; and 11  
12  
13

(b) the benefit that is being paid, or becomes payable, under this Act to the person is a pension (a *relevant benefit*). 14  
15

‘(2) Subject to subsection (4), the Minister must pay the entitled former spouse for the agreement or court order the proportion, stated in the agreement or order, of the relevant benefit to which he or she is entitled under the agreement or order (the *spousal amount*). 16  
17  
18  
19  
20

‘(3) The Minister must reduce the relevant benefit that, other than for the agreement or court order, would be payable under this Act to the person mentioned in subsection (1) by the spousal amount. 21  
22  
23  
24

‘(4) The Minister must pay the entitled former spouse a pension for his or her lifetime (a *lifetime pension*) if the entitled former spouse elects, by written notice given to the Minister, to be paid a lifetime pension. 25  
26  
27  
28

‘(5) The notice must be given to the Minister— 29

(a) if the Minister receives the agreement or court order before the relevant benefit becomes payable—within 3 months after it becomes payable; or 30  
31  
32

(b) otherwise—within 3 months after the day the Minister receives the agreement or order. 33  
34



‘(6)	If the entitled former spouse elects to be paid a lifetime pension, the amount of the pension must be calculated in the way decided by the Minister on the advice of an actuary.	1 2 3
<b>‘13</b>	<b>Agreement or court order—death of judge in office</b>	<b>4</b>
‘(1)	This section applies if the Minister receives an agreement or court order that relates to a person who—	5 6
(a)	is a judge at the operative time for the agreement or order; and	7 8
(b)	dies while holding office as a judge.	9
‘(2)	The Minister must pay the entitled former spouse for the agreement or court order a pension for his or her lifetime (a <i>lifetime pension</i> ).	10 11 12
‘(3)	The amount of the lifetime pension must be—	13
(a)	calculated in the way decided by the Minister on the advice of an actuary; and	14 15
(b)	based on the proportion, stated in the agreement or court order, of the pension that would have been payable to the person mentioned in subsection (1) if the person had been entitled to the pension under section 5 <sup>11</sup> immediately before the person’s death.	16 17 18 19 20
<b>‘14</b>	<b>Effect of agreement or court order on particular pensions</b>	<b>21 22</b>
	‘Despite section 7 or 8, <sup>12</sup> an entitled former spouse is not entitled to receive a pension under any of the provisions.	23 24
<b>‘14A</b>	<b>Minister to inform entitled former spouse</b>	<b>25</b>
	‘If the Minister receives an agreement or court order from a person other than the entitled former spouse for the agreement or order, the Minister must as soon as practicable inform the	26 27 28

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11 Section 5 (Pension of judge retiring on account of ill health)

12 Section 7 (Pension of spouse on death of judge) or 8 (Pension of spouse on death of retired judge)

entitled former spouse of the receipt of the agreement or order.’. 1  
2

**Part 4**                      **Amendment of Parliamentary** 3  
                                    **Contributory Superannuation** 4  
                                    **Act 1970** 5

**Clause 9**            **Act amended in pt 4** 6

This part amends the *Parliamentary Contributory* 7  
*Superannuation Act 1970*. 8

**Clause 10**         **Amendment of s 4 (Application of Act)** 9

(1) Section 4(b), after ‘Act’— 10

*insert*— 11

‘and before the commencement of the *Superannuation* 12  
*Legislation Amendment Act 2004*, part 4’. 13

(2) Section 4— 14

*insert*— 15

‘(2) This Act does not apply to or in relation to a person who 16  
becomes a member after the commencement of the 17  
*Superannuation Legislation Amendment Act 2004*, part 4, 18  
unless the person— 19

(a) was a member immediately before the commencement 20  
of the part; and 21

(b) has not, after the commencement of the part, ceased to 22  
be a member at any time before again becoming a 23  
member.’. 24

**Clause 11**         **Amendment of s 16 (Contribution by Crown)** 25

(1) Section 16(2)— 26

*renumber* as section 16(3). 27

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- (2) Section 16— 1  
*insert—* 2
- ‘(2) Also, the Treasurer may, at any time, pay into the fund an amount the Treasurer considers necessary or desirable for the effective and efficient operation of the fund.’. 3  
 4  
 5

- Clause 12 Amendment of s 18A (Preserved amount)** 6
- (1) Section 18A, heading, after ‘**amount**’— 7  
*insert—* 8  
 ‘**—lump sum entitlement**’. 9
- (2) Section 18A(4), definition *preserved amount*, ‘be retained in the fund’— 10  
 11  
*omit, insert—* 12  
 ‘not be paid to the former member’. 13

- Clause 13 Amendment of s 21 (Payments to children)** 14
- (1) Section 21— 15  
*insert—* 16
- ‘(5A) A payment to a child may be made under this section at any time— 17  
 18
- (a) after the death of the member or former member through whom the child’s benefit is derived; and 19  
 20
- (b) while the child is— 21
- (i) under 16 years; or 22
- (ii) if the trustees are satisfied the child is receiving full-time education at a school, college or university—under 25 years. 23  
 24  
 25
- ‘(5B) If a benefit is payable under this section at a rate of pension payable to a former member or someone else, sections 25C 26  
 27

and 25D<sup>13</sup> do not apply to the pension for the purpose of calculating or paying the benefit.’.

(2) Section 21(3A) to (6)—

*renumber* as section 21(4) to (9).

**Clause 14 Insertion of new s 24A**

After section 24—

*insert—*

**‘24A When particular pension entitlement ends**

‘(1) This section applies to a member if—

(a) the member is entitled to a pension, under section 17(1) or 19, that is not payable or is reduced under section 24(1)(d) or (e) (the *first pension*); and

(b) the member again becomes entitled to a pension under section 17(1) or 19 on again ceasing to be a member.

‘(2) The member’s entitlement to the first pension ends when the member again becomes entitled to a pension under section 17(1) or 19.

‘(3) Subsection (2) does not limit the member’s entitlement to a pension under this Act for the aggregate period for which he or she was a member.’.

**Clause 15 Amendment of s 25A (Indexation of pensions)**

(1) Section 25A(1), ‘or 20B’—

*omit, insert—*

‘, 20B or 25K’.

(2) Section 25A—

*insert—*

<sup>13</sup> Sections 25C (Superannuation contributions surcharge) and 25D (Election to take part of pension as a lump sum to meet surcharge liability)

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- (1A) To remove any doubt, it is declared that this section applies to a pension that is not payable, or is reduced, under section 24(1)(d) or (e).’ 1  
2  
3
- (3) Section 25A(2), from ‘as follows’— 4  
*omit, insert—* 5  
‘as follows— 6
- (a) for a pension payable to a relevant person— 7
- (i) if the basic salary at 1 July of the financial year is higher than the basic salary at 1 July of the previous financial year, the pension must be increased by the percentage increase between the 2 basic salaries; or 8  
9  
10  
11  
12
- (ii) otherwise, the pension remains the same; 13
- (b) for another pension— 14
- (i) if the June index for the previous financial year is higher than the last adjustment index for the pension, the pension must be increased by the percentage increase between the 2 indexes; or 15  
16  
17  
18
- (ii) otherwise, the pension remains the same.’ 19
- (4) Section 25A(4), ‘2 indexes under subsection (2)(a)’— 20  
*omit, insert—* 21  
‘2 basic salaries or 2 indexes under subsection (3)(a)(i) or (b)(i)’. 22  
23
- (5) Section 25A(5)— 24  
*insert—* 25  
**‘entitled former spouse** has the same meaning as in part 3A. 26  
**relevant person**, for a pension, means— 27
- (a) if the pension is payable under section 17, 17A(3) or 19—a person who was a member immediately before the commencement of the *Superannuation Legislation Amendment Act 2004*, part 4; or 28  
29  
30  
31
- (b) if the pension is payable under section 20AA, 20A, 20B or 25K—a person who derives the pension through, or is 32  
33

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	the entitled former spouse for, a person mentioned in paragraph (a).’.	1 2
	(6) Section 25A(1A) to (5)— <i>renumber</i> as section 25A(2) to (6).	3 4
<b>Clause 16</b>	<b>Amendment of s 25C (Superannuation contributions surcharge)</b>	5 6
	(1) Section 25C(3)(c), ‘13.5%’— <i>omit, insert—</i> ‘12.5%’.	7 8 9
	(2) Section 25C(3)(d), ‘12.5%’— <i>omit, insert—</i> ‘10%’.	10 11 12
<b>Clause 17</b>	<b>Insertion of new pt 4, div 3</b>	13
	After section 30F— <i>insert—</i>	14 15
<b>‘Division 3</b>	<b>Provision for Superannuation Legislation Amendment Act 2004</b>	16 17
<b>‘30G</b>	<b>Dealing with amount retained in fund</b>	18
	‘(1) This section applies to a former member if, on the commencement, a lump sum benefit payable under section 17(2), 18 or 19A is retained in the fund for the former member.	19 20 21 22
	‘(2) Subject to subsection (4), the trustees must pay the lump sum to an approved deposit fund, or a superannuation fund, nominated by the former member.	23 24 25
	‘(3) The former member must nominate a fund for subsection (2) within 3 months after the commencement.	26 27
	‘(4) If the former member does not nominate a fund under this section, the trustees must pay the lump sum to the State Public Sector Superannuation Fund on behalf of the former member as soon as practicable after the commencement.	28 29 30 31

	‘(5) In this section—	1
	<i>commencement</i> means the day this section commences.’.	2
<b>Clause 18</b>	<b>Insertion of new s 31A</b>	3
	After section 31—	4
	<i>insert</i> —	5
	<b>‘31A Trustees may accept late election</b>	6
	‘(1) Despite the stated period for making an election under a	7
	relevant provision, the trustees may accept an election made	8
	under the provision after the stated period ends if satisfied it	9
	would be reasonable in all the circumstances to accept the	10
	election.	11
	‘(2) In this section—	12
	<i>relevant provision</i> means section 18(1) or (11), 19A(1),	13
	20AA(7), 20A(1), 23A(1) or 27(3). <sup>14</sup>	14
	<i>stated period</i> , for making an election under a relevant	15
	provision, means—	16
	(a) for an election under section 18(1) or (11)—the period	17
	stated in section 18(1), including section 18(1) as	18
	applied by section 18(12), for the election; or	19
	(b) for an election under section 19A(1), 20AA(7), 23A(1),	20
	or 27(3)—the period stated in the subsection for the	21
	election; or	22
	(c) for an election under section 20A(1)—the period stated	23
	in section 20A(3)(b) for the election.’.	24
<b>Clause 19</b>	<b>Replacement of s 33A (Preservation of lump sum)</b>	25
	Section 33A—	26

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14 Section 18 (Right to convert entitlement to lump sum entitlement), 19A (Right to convert s 19 entitlement to lump sum entitlement), 20AA (Benefits payable to a widow of a new member who died on or after the new member’s 70th birthday), 20A (Widow’s right to substitute pension for entitlement), 23A (Entitlement in respect of beneficiary who becomes a member) or 27 (Annuity to widow’s and female dependents payable or to become payable under repealed provisions)

*omit, insert—*

**‘33A Payment of lump sum**

- ‘(1) This section applies to a former member who—
- (a) is under 70 years; and
- (b) is entitled under this Act to payment of a lump sum.
- ‘(2) Subject to subsection (4), the trustees must pay the lump sum to an approved deposit fund, or a superannuation fund, nominated by the former member.
- ‘(3) The former member must nominate a fund for subsection (2) within 3 months after he or she ceases to be a member.
- ‘(4) If the former member does not nominate a fund under this section, the trustees must pay the lump sum to the State Public Sector Superannuation Fund on behalf of the former member as soon as practicable after the period stated in subsection (3) for nominating a fund ends.’.

**Clause 20 Amendment of s 33B (Transfers in)**

- (1) Section 33B, heading—
- omit, insert—*
- ‘33B Transferring or withdrawing amounts’.**
- (2) Section 33B—
- insert—*
- ‘(3) The member may transfer from the fund to an approved deposit fund, or a superannuation fund, all or a part of an amount received under subsection (1), other than an amount received under the *Superannuation (Public Employees Portability) Act 1985*.
- ‘(4) If the member may withdraw from the fund an amount received under subsection (1), the trustees may impose reasonable conditions about the minimum amount of a withdrawal, or the frequency of withdrawals, having regard to the appropriate administration of the fund.’.



<b>Part 5</b>	<b>Amendment of Superannuation Legislation Amendment Act 2003</b>	1 2 3
<b>Clause 21</b>	<b>Act amended in pt 5</b>	4
	This part amends the <i>Superannuation Legislation Amendment Act 2003</i> .	5 6
<b>Clause 22</b>	<b>Amendment of s 4 (Amendment of s 5 (Definitions))</b>	7
	Section 4, insertion of new definitions <i>approved deposit fund</i> , <i>State Public Sector Superannuation Fund</i> and <i>superannuation fund</i> —	8 9 10
	<i>omit, insert</i> —	11
	<i>‘approved deposit fund</i> see the <i>Superannuation Industry (Supervision) Act 1993</i> (Cwlth), section 10. <sup>15</sup>	12 13
	<i>State Public Sector Superannuation Fund</i> means the State Public Sector Superannuation Fund under the <i>Superannuation (State Public Sector) Act 1990</i> .	14 15 16
	<i>superannuation fund</i> see the <i>Superannuation Industry (Supervision) Act 1993</i> (Cwlth), section 10. <sup>16</sup> .	17 18

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15 *Superannuation Industry (Supervision) Act 1993* (Cwlth), section 10—

***approved deposit fund*** means a fund that—

- (a) is an indefinitely continuing fund; and
- (b) is maintained by—
  - (i) an approved trustee; or
  - (ii) an RSE licensee that is a constitutional corporation; and
- (c) is maintained solely for approved purposes.

16 *Superannuation Industry (Supervision) Act 1993* (Cwlth), section 10—

***superannuation fund*** means—

- (a) a fund that—
  - (i) is an indefinitely continuing fund; and
  - (ii) is a provident, benefit, superannuation or retirement fund; or
- (b) a public sector superannuation fund.

<b>Clause 23</b>	<b>Amendment of s 6 (Insertion of new pt 3A)</b>	1
	Section 6, insertion of new section 25E, definitions <i>approved deposit fund</i> , <i>State Public Sector Superannuation Fund</i> and <i>superannuation fund</i> —	2 3 4
	<i>omit.</i>	5
<b>Clause 24</b>	<b>Omission of pt 3 (Amendment of Superannuation (State Public Sector) Act 1990)</b>	6 7
	Part 3—	8
	<i>omit.</i>	9
<b>Part 6</b>	<b>Amendment of Superannuation (State Public Sector) Act 1990</b>	10 11
<b>Clause 25</b>	<b>Act amended in pt 6</b>	12
	This part amends the <i>Superannuation (State Public Sector) Act 1990</i> .	13 14
<b>Clause 26</b>	<b>Amendment of s 2 (Interpretation)</b>	15
	(1) Section 2(1), definition <i>unit of the State public sector</i> —	16
	<i>insert</i> —	17
	‘(la) the Legislative Assembly; or’.	18
	(2) Section 2(1), definition <i>unit of the State public sector</i> , paragraph (p)—	19 20
	<i>omit.</i>	21
	(3) Section 2(1), definition <i>unit of the State public sector</i> , paragraphs (la) to (o)—	22 23
	<i>renumber</i> as paragraphs (m) to (p).	24
	(4) Section 2(3), ‘paragraph (n)’—	25
	<i>omit, insert</i> —	26

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‘paragraph (o)’. 1

(5) Section 2(3)— 2

*renumber* as section 2(2). 3

**Clause 27      Amendment of s 13 (Membership of scheme) 4**

Section 13(6)— 5

*insert*— 6

‘(c) a person for whom an amount is paid to the fund 7  
under— 8

(i) the *Governors (Salary and Pensions) Act 2003*, 9  
section 16C;<sup>17</sup> or 10

(ii) the *Judges (Pensions and Long Leave) Act 1957*, 11  
section 11;<sup>18</sup> or 12

(iii) the *Parliamentary Contributory Superannuation 13*  
*Act 1970*, section 25G or 25H.<sup>19</sup>. 14

**Clause 28      Amendment of s 15G (Limit on deduction on refund of 15  
certain contributions) 16**

Section 15G(2)— 17

*omit, insert*— 18

‘(2) The amount deducted under section 15F must not be more 19  
than the total of the following amounts— 20

(a) 15% of the employer-financed component of the part of 21  
the benefit that accrued after 20 August 1996 and before 22  
1 July 2003; 23

---

17 *Governors (Salary and Pensions) Act 2003*, section 16C (Agreement or court order—minimum benefit)

18 *Judges (Pensions and Long Leave) Act 1957*, section 11 (Agreement or court order—minimum benefit)

19 *Parliamentary Contributory Superannuation Act 1970*, section 25G (Agreement or court order for member with less than 8 years service at the operative time) or 25H (Agreement or court order for member with at least 8 years service at the operative time)

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- |  |   |   |
|--|---|---|
|  | (b) 14.5% of the employer-financed component of the part  | 1 |
|  | of the benefit that accrued after 30 June 2003 and before | 2 |
|  | 1 July 2004;  | 3 |
|  | (c) 12.5% of the employer-financed component of the part  | 4 |
|  | of the benefit that accrued after 30 June 2004 and before | 5 |
|  | 1 July 2005;  | 6 |
|  | (d) 10% of the employer-financed component of the part of | 7 |
|  | the benefit that accrued after 30 June 2005.’.            | 8 |

- |                      |   |        |
|----------------------|---|--------|
| <b>Clause 29</b>     | <b>Insertion of new s 20A</b>                                       | 9      |
|                      | After section 20—   | 10     |
|                      | <i>insert—</i>  | 11     |
| <b>‘20A</b>          | <b>Auditing</b>   | 12     |
|                      | ‘(1) The board must—  | 13     |
|                      | (a) keep appropriate financial statements about the                 | 14     |
|                      | administration of the scheme; and                                   | 15     |
|                      | (b) have the financial statements for each financial year           | 16     |
|                      | audited by the auditor-general.                                     | 17     |
|                      | ‘(2) As soon as practicable after the auditor-general certifies the | 18     |
|                      | financial statements and prepares a report about the certified      | 19     |
|                      | statements under the audit, the auditor-general must—               | 20     |
|                      | (a) give the certified statements and report to the board; and      | 21     |
|                      | (b) give a copy of the certified statements and report to the       | 22     |
|                      | Minister.’.   | 23     |
| <br><b>Clause 30</b> | <br><b>Amendment of s 28 (Contributions by units)</b>               | <br>24 |
|                      | (1) Section 28(3), ‘for this section’—                              | 25     |
|                      | <i>omit.</i>  | 26     |
|                      | (2) Section 28(4)—  | 27     |
|                      | <i>renumber</i> as section 28(6).                                   | 28     |
|                      | (3) Section 28—   | 29     |
|                      | <i>insert—</i>  | 30     |
|                      | ‘(4) Subsection (5) applies if—                                     | 31     |

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(a) the amount is paid within the time required under subsection (2); and 1  
2

(b) the board can not pay the amount or a part of the amount into the member's appropriate account because information received for the member, from the unit of the State public sector in a return mentioned in section 17(1), is not accurate or complete. 3  
4  
5  
6  
7

'(5) Interest accrues on the amount that can not be paid into the member's appropriate account— 8  
9

(a) at the rate prescribed under a regulation; and 10

(b) for the period in which the amount can not be paid into the account.' 11  
12

(4) Section 28(6), as renumbered, 'The amount'— 13

*omit, insert—* 14

'The amount mentioned in subsection (1), and interest that accrues under subsection (3) or (5),'. 15  
16

(5) Section 28— 17

*insert—* 18

'(7) In this section— 19

'*member's appropriate account*, in relation to an amount received for a member of the scheme, means the member's account under the scheme into which the amount must be paid under this Act.' 20  
21  
22  
23

**Clause 31      Amendment of s 30 (Assignment of benefit) 24**

Section 30, 'No'— 25

*omit, insert—* 26

'Subject to part 3A, no'. 27

**Clause 32      Insertion of new pt 4A 28**

After section 31— 29

*insert—* 30

<b>‘Part 4A</b>	<b>Validation provision for appointment of executive officer of board</b>	1 2 3
<b>‘31A</b>	<b>Validation provision for appointment of executive officer of board</b>	4 5
‘(1)	For this Act, the person appointed as the executive officer of the board by the Governor in Council on 24 July 2003 is taken to have been validly appointed as the executive officer of the board on 2 July 1997 for the relevant period.	6 7 8 9
‘(2)	Anything done or omitted to be done during the relevant period that would have been valid and lawful under this Act had the person been validly appointed as the executive officer on 2 July 1997 is taken to be, and always to have been, as valid and lawful as if the person had been validly appointed as the executive officer on that day.	10 11 12 13 14 15
‘(3)	In this section—  <i>relevant period</i> means the period starting on 2 July 1997 and ending at the end of 23 July 2003.’.	16 17 18
<b>Part 7</b>	<b>Other amendments</b>	19
<b>Clause 33</b>	<b>Other amendments</b>	20
	The schedule amends the Acts it mentions.	21

<b>Schedule</b>	<b>Other amendments</b>	1
		section 33
		2
	<b>Governors (Salary and Pensions) Act 2003</b>	3
1	<b>Part 3, division 3, before section 11—</b>	4
	<i>insert—</i>	5
	<b>‘Subdivision 1 General provisions’.</b>	6
2	<b>Section 13(3), definitions <i>approved deposit fund</i> and <i>superannuation fund</i>—</b>	7
	<i>relocate</i> to schedule.	8
		9
	<b>Judges (Pensions and Long Leave) Act 1957</b>	10
1	<b>Before section 1—</b>	11
	<i>insert—</i>	12
	<b>‘Part 1 Preliminary’.</b>	13
2	<b>Before section 2C—</b>	14
	<i>insert—</i>	15
	<b>‘Part 2 Pensions and other entitlements</b>	16
		17
	<b>‘Division 1 General provisions’.</b>	18

## Schedule (continued)

<b>3</b>	<b>Section 2C(2), ‘a superannuation or approved deposit fund’—</b>	1 2
	<i>omit, insert—</i>	3
	‘an approved deposit fund, or a superannuation fund.’.	4
<b>4</b>	<b>Before section 15—</b>	5
	<i>insert—</i>	6
	<b>‘Part 3                      Other matters’.</b>	7
<b>5</b>	<b>Before section 21—</b>	8
	<i>insert—</i>	9
	<b>‘Part 4                      Transitional provision for the                                  Statute Law Revision Act                                  (No. 2) 1995’.</b>	10 11 12
<b>6</b>	<b>After section 21—</b>	13
	<i>insert—</i>	14
	<b>‘Schedule                      Dictionary</b>	15
	section 2’.	16
	 <b>Parliamentary Contributory Superannuation Act 1970</b>	17
<b>1</b>	<b>Section 24(3), ‘as prescribed by’—</b>	18
	<i>omit, insert—</i>	19
	‘under former’.	20



## Schedule (continued)

<b>2</b>	<b>Section 24—</b>	1
	<i>insert—</i>	2
	‘(4) In this section—	3
	<i>former section 22(1)</i> means section 22(1) as in force before	4
	14 June 1990.’.	5
<b>3</b>	<b>Part 4, heading, after ‘TRANSITIONAL’—</b>	6
	<i>insert—</i>	7
	‘Provisions’.	8
	<b>Superannuation (State Public Sector) Act 1990</b>	9
<b>1</b>	<b>Section 2(1), definition <i>police 74 member</i>, paragraph (a), before ‘Police’—</b>	10 11
	<i>insert—</i>	12
	‘the’.	13
<b>2</b>	<b>Parts 4A (as inserted by this Act), 5 and 6—</b>	14
	<i>renumber</i> as parts 5, 6 and 7.	15
<b>3</b>	<b>Sections 31A (as inserted by this Act), 32 and 33—</b>	16
	<i>renumber</i> as sections 32, 33 and 34.	17
<b>4</b>	<b>Sections 33(2) and 34(2), as renumbered, ‘paragraph (n)’—</b>	18 19
	<i>omit, insert—</i>	20
	‘paragraph (o)’.	21

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